

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Karen Doyle Lyons, City of Norwalk

File No. 2008-007

FINDINGS AND CONCLUSIONS

Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that on or around Election Day, November 6, 2007, unnamed individuals placed advocacy materials for the campaign of Walter O. Briggs for Mayor of Norwalk inside three separate polling places within sight of the electors during voting hours, in violation of General Statutes § 9-236 (a).

After the investigation of the Complaint, the Commission makes the following findings and conclusions:

1. At all times relevant to the instant Complaint, Complainant was the Republican Registrar of Voters for the City of Norwalk.
2. At all times relevant to the instant Complaint, Walter O. Briggs was the Democratic candidate for Mayor of the City of Norwalk and appeared on the ballot on the Democratic line as such.
3. During the hours of voting on Election Day cards bearing, inter alia, the logo of the "Walter Briggs for Mayor" campaign were found by the Complainant on certain official checker's tables inside the Fox Run School, Columbus School and Rowayton School polling places within sight of the electors therein.
4. Prior to Election Day, Matthew Waggner, campaign manager for the "Walter Briggs for Mayor" campaign, created and distributed the cards to approximately 200 Democratic unofficial checkers in the City of Norwalk. The cards were instructions for the unofficial checkers regarding their duties as unofficial checkers. There is no evidence that Mr. Waggner instructed anyone to display the cards within any polling place.
5. The cards which are the subject of the instant matter were approximately 7" x 5" and bore on the top a logo which read "Walter Briggs/Democrat for Mayor." On the bottom, in much smaller type, the cards bore the words "Paid for and Approved by Walter Briggs for Mayor – John Atkin, Treasurer." The cards also contained text instructions in the body whose font was bold and approximately 2-4 times the size of the logo at the top, and read: "Please strike out name only,/or check box;/Do not mark barcode./Thanks!"
6. Connecticut General Statutes § 9-236, provides in pertinent part:
 - (a) On the day of any primary, referendum or election, no person shall solicit in behalf of or in opposition to the candidacy of

another or himself or in behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach, except as provided in section 9-294. . . .

(b) (1) The selectmen shall provide suitable markers to indicate the seventy-five-foot distance from such entrance. . . . (3) The moderator and his assistants shall meet at least twenty minutes before the opening of a primary, referendum or an election in the voting district, and shall cause to be placed by a police officer or constable, or such other primary or election official as they select, a suitable number of distance markers. Such moderator or any police officer or constable shall prohibit loitering and peddling of tickets within that distance. (Emphasis added.)

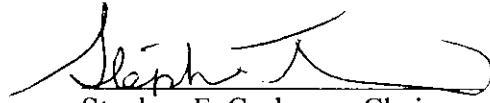
7. Because the cards bore the words "Walter Briggs/Democrat for Mayor" they were pieces of advocacy and should not have been offered to or within sight of any elector within the polling place or within 75 feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach and should have been removed by the moderator.
8. There is no evidence that the moderators at any of the aforementioned polling places saw the cards and failed to remove them upon their detection. As such, no provable violation of General Statutes § 9-236 (b)(3) can be sustained.
9. Although there is no specific evidence, it stands to reason that the cards were brought into the polling place and placed on the checkers' table by the Democratic unofficial checkers. However, no witness observed any Democratic unofficial checker, or any other individual, either bringing the cards into the polling places and/or placing them on the checkers' tables.
10. Since there is no identifiable Respondent, no provable violation of General Statutes § 9-236 (a) can be sustained.

ORDER

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

That the Complaint be dismissed.

Adopted this 8th day of April of 2009 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission