

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Olga Iris Vazquez,
Hartford

File No. 2008-092

FINDINGS AND CONCLUSIONS

Complainant filed the instant complaint with the Commission pursuant to General Statutes §9-7b, alleging that the City of Hartford Democratic Registrar of Voters, Shirley Surgeon, violated General Statutes § 9-140 by failing to forthwith file completed absentee ballot applications with the City of Hartford Town Clerk.

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

1. Shirley Surgeon was the City of Hartford Democratic Registrar of Voters at the time of the filing of this complaint. Ms. Surgeon, the incumbent, was the petitioning Democratic Registrar candidate in the August 12, 2008 City of Hartford Democratic Primary for the office of Registrar of Voters. Ms. Surgeon lost the primary to the Complainant who was the endorsed Democratic Registrar candidate in the August 12, 2008 City of Hartford Democratic Primary for the office of Registrar of Voters.
2. On July 22, 2008 Complainant filed the instant complaint with the Commission alleging that Ms. Surgeon had violated General Statutes § 9-140 by holding onto completed absentee ballot applications and not submitting them to the Hartford Town and City Clerk's Office forthwith. Complainant also alleged that Ms. Surgeon had removed completed absentee ballot applications from the Registrars of Voters office prior to delivering them to the Town and City Clerk's Office.
3. Complainant also requested that Ms. Surgeon relinquish her duties in connection with the August 12, 2008 City of Hartford Democratic Primary because Complainant believed that Ms. Surgeon was unable to remain neutral during the process.
4. General Statutes § 9-258 provides in pertinent part that, “[A] known candidate for any office shall not serve as an election official on election day or serve at the polls in any capacity, **except that** a municipal clerk or a registrar of voters, who is a candidate for the same office, may perform his or her official duties.” [Emphasis added.]
5. Accordingly, the Commission did not ask Ms. Surgeon to relinquish her duties and as such, the Commission informed the Complainant by letter. Complainant was also provided copies of two letters from the Office of the Secretary of the State that specifically addressed General Statutes § 9-258

in relation to Registrars of Voters that were candidates for the office of Registrar of Voters and performing their official primary duties.

6. Ms. Surgeon is not registered as distributing five or more absentee ballot applications on the August 12, 2008 Democratic Primary *Absentee Ballot – Application Logs* in Hartford Town and City Clerk's Office.
7. There are several entries for "ROV" on the *Absentee Ballot – Application Logs*, specifically, on July 14, 2008 "ROV" is listed as having received absentee ballot applications numbered 1 – 171; on July 15, 2008 "ROV" is listed as having received absentee ballot applications numbered 1701 – 1800; on July 22, 2008 "ROV" is listed as having received absentee ballot applications numbered 1952 – 2050 & 2051 – 2100; on July 31, 2008 "ROV" is listed as having received absentee ballot applications numbered 2351 – 2400.
8. The Hartford Town and City Clerk's Office has indicated that the entries for "ROV" on the *Absentee Ballot – Application Logs* are not for Ms. Surgeon and that the "ROV" entries are for absentee ballot applications that the Registrars of Voters office received. There is no evidence that Ms. Surgeon directly received any completed absentee ballot applications in connection with the August 12, 2008 Democratic primary based on the records maintained by the Town and City Clerk's Office.
9. However, Ms. Surgeon has indicated that while in the process of circulating petitions, she also distributed and received completed absentee ballot applications. Ms. Surgeon has also indicated that she received the absentee ballot applications from the Town and City Clerk's Office, although she does not appear on the *Absentee Ballot – Application Log* maintained by that office.
10. The Commission has reviewed the hundreds of completed absentee ballot applications that were received by the Town and City Clerk's Office in connection with the August 12, 2008 Democratic primary and Ms. Surgeon signed as an assister on only fourteen such completed absentee ballot applications.
11. There are two absentee ballot applications that Ms. Surgeon signed as an assister where the absentee ballot applicants indicated that they signed the absentee ballot applications on June 1, 2008 and the date and time stamp indicates that the Town and City Clerk's Office received the completed absentee ballot applications on July 22, 2008. These two applicants did not vote in the August 12, 2008 Democratic Primary.
12. The other twelve completed absentee ballot applications which Ms. Surgeon signed as an assister were all received by the Town and City

Clerk's Office within one, two or three days of the date that the applicant indicated that he or she had signed the absentee ballot application.

13. General Statutes § 9-140 provides in pertinent part:

(k) (1) A person shall register with the town clerk before distributing five or more absentee ballot applications for an election, primary or referendum, not including applications distributed to such person's immediate family. Such requirement shall not apply to a person who is the designee of an applicant.

(2) Any person who distributes absentee ballot applications shall maintain a list of the names and addresses of prospective absentee ballot applicants who receive such applications, and shall file such list with the town clerk prior to the date of the primary, election or referendum for which the applications were so distributed. **Any person who distributes absentee ballot applications and receives an executed application shall forthwith file the application with the town clerk.** [Emphasis added.]

14. The Office of the Secretary of the State has indicated that they use the Black's Law Dictionary definition of "forthwith." The Black's Law Dictionary (6th Edition, 1994, p. 654) defines "forthwith" as follows:

"Immediately; without delay; directly; with-in a reasonable time under the circumstance of the case; promptly and with reasonable dispatch. (U.S. ex rel. Carter v. Jennings, D.C. Pa., 333 F. Supp. 1392, 1397.) Within such time as to permit that which is to be done, to be done lawfully and according to the practical and ordinary course of things to be performed or accomplished. The first opportunity offered."

15. The Commission concludes that more than a month is not "forthwith," within the meaning of General Statutes § 9-140(k).

16. Nevertheless, in the instant matter a determination was not made until June 19, 2008 that Ms. Surgeon had obtained sufficient signatures to qualify for a primary. Furthermore, Ms. Surgeon has acknowledged that completed absentee ballot applications were misplaced within campaign headquarters and that upon their discovery they were immediately delivered to the Town and City Clerk's Office. In addition, the completed absentee ballot applications were received by the Town and City Clerk with three weeks remaining prior to the August 12, 2008 Democratic primary and no individual's access to an absentee ballot set was affected. Nevertheless, the applicants did not vote in the August 12, 2008 Democratic Primary, either in person or by absentee ballot.

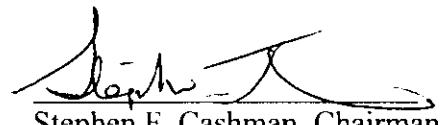
17. Based on the facts and circumstances delineated above, the Commission will take no further action in connection with this complaint.

ORDER

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

That the matter be dismissed.

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



Stephen F. Cashman, Chairman
By Order of the Commission