STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Daria K. Clark & Lila L. Tuxbury, New Hartford

File No. 2009-031

FINDINGS AND CONCLUSIONS

The Complainants, the New Hartford Registrars of Voters, bring this complaint pursuant to §9-7b, General Statutes, alleging that the Respondent was not qualified to vote in town, after discovering that two other individuals who lived at the address that Maura McLoughlin (hereinafter the "Respondent") gave as her voting address, 220 Main Street, Unit 6-L, New Hartford, declared that Respondent did not live at the address given. The Complainants further suspected that Respondent did not reside in town since her proof of residency, Respondent's driver's license, displayed two towns, Durham and Clinton, and not New Hartford.

After an investigation of this matter, the following findings and conclusions are made:

1. The Complainants are the Registrars of Voters of the Town of New Hartford.

2. The Town of New Hartford held a referendum on or about February 12, 2009, on the Wastewater Treatment Plant where electors and eligible property owners in town could vote.

3. The Respondent showed up to vote at the polling place and her name appeared on the official list of active electors in New Hartford. However, the Complainants challenged the Respondent's qualifications as an elector in town after discovering that two other individuals lived at 220 Main Street, Unit 6-L, New Hartford, who each declared that the Respondent did not reside at that address.

4. Further, the Respondent driver's license exhibited two out of town addresses located in Clinton and Durham, Connecticut, and no New Hartford address.

5. Connecticut General Statutes §9-12, provides:

    (a) Each citizen of the United States who has attained the age of eighteen years, and who is a ***bona fide resident*** of the town to which the citizen applies for admission as an elector shall, on approval by the registrars of voters or town clerk of the town of residence of such citizen, as prescribed by law, be an elector, except as provided in subsection (b) of this section. For purposes of this section a person shall be deemed to have attained the age of eighteen years on the day of the person's eighteenth birthday. No mentally incompetent person shall be admitted as an elector. [Emphasis added.]

6. Connecticut General Statutes §9-172, provides:

    At any regular or special state election any person may vote who was registered on the last-completed revised registry list of the town in which he offers to vote, and he shall vote in the district in which he was so registered; provided those persons may vote whose names are restored to the list under the provisions of section 9-42 or whose names are added on the last weekday before a regular election under the provisions of section 9-17. Each person so registered shall be permitted to vote ***if he is a bona fide resident of the town*** and political subdivision holding the election and has not lost his right by conviction of a

disfranchising crime. *Any person offering so to vote and being challenged as to his identity or residence shall, before he votes, prove his identity with the person on whose name he offers to vote or his bona fide residence in the town* and political subdivision holding the election, as the case may be, by the testimony, under oath, of at least one other elector or by such other evidence as is acceptable to the moderator.

7. Connecticut General Statutes §9-232, provides:

    (a) Each registrar may appoint one or more challengers in his town or district, one of whom may be present at the offering of any vote; and any such challenger or *any elector may challenge the right of any person offering to vote, on the ground* of want of identity with the person on whose name the vote is offered, or disfranchisement or *lack of bona fide residence*, and the moderator shall decide upon the right of the person so challenged to vote.

    (b) Challenges shall not be made indiscriminately and may only be made if the challenger knows, suspects or reasonably believes such a person not to be qualified and entitled to vote. Any challenge by an elector and the statement of the person challenged shall be under oath, administered by the moderator. [Emphasis added.]

8. The Complainants, in accordance with Conn. Gen. Stats. §§9-172 and 9-232, asked the Respondent to prove her bona fide residence in the town, but she refused to provide any proof.

9. Further, Respondent refused to complete the *"Request for Transfer of Registration/Enrollment"*, ED-513a - Transfer Form (Form 4) as required under Conn. Gen. Stat. §9-35(e) to transfer registration to another address in town. Accordingly, Respondent was not permitted to vote.

10. After returning to their office, the Complainants mailed the Respondent a canvass notice where the Respondent could verify her former and current address, sign, date and return form to Complainants' office.

11. General Statutes § 9-35(e) provides in pertinent part:

    ... (e) In any *case in which the registrars have obtained reliable information of an elector's change of address within the municipality*, they shall enter the name of such elector on the registry list at the place where the elector then resides, provided, if such reliable information is the National Change of Address System of the United States Postal Service, the registrar shall change the registry list and *send the elector a notice of the change by forwardable mail and a postage prepaid preaddressed return form by which the elector may verify or correct the address information.* If during the canvass the registrars determine that an elector has moved out of town and such elector has not confirmed in writing that the elector has moved out of the town, the registrars shall, not later than May first, send to the elector, by forwardable mail, a notice required by the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time, together with a postage prepaid preaddressed return card on which the elector may state the elector's current address. In the year of a presidential preference primary, the registrars shall send such notice not earlier than the date of such primary. If the registrar does not receive the return card within thirty days after it is sent, the elector's name, including the name of an elector who has not voted in two consecutive federal elections, *shall be placed on the inactive registry list* for four years. At the expiration of such period of time on the

2

inactive registry list, such name shall be removed from the registry list. *If such elector applies to restore the elector's name to the active registry list or votes during such period, the elector's name shall be restored to the active registry list.* Such registrars shall retain a duplicate copy or record of each such notice in their office or, if they do not have a permanent office, in the office space provided under section 9-5a, and shall note on such duplicate copy or record the date on which such notice was mailed. *In each municipality, any elector, upon change of residence within the municipality, may cause the elector's registration to be transferred to the elector's new address by presenting to the registrars a signed request therefor, stating the elector's present address, the date the elector moved to such address and the address at which the elector was last registered.* The registrars shall thereupon enter the elector's name on the list at the elector's new residence; provided no transfer of registration shall be made on the registry list on election day without the consent of both registrars. [Emphasis added.]

12. By way of background, on or about December 1, 2006, the Respondent purchased and moved to a condominium unit located at 220 Main St, New Hartford, where she resided until on or about June 1, 2008. At that time, she moved to another address within the town of New Hartford and rented her condominium unit to two individuals. She neglected to effectuate a change of address with the Registrars of Voters or the Department of Motor Vehicles.

13. It is concluded that on or about February 12, 2009, the Respondent was a bona fide resident of 454 Reservoir Road, New Hartford, and was qualified to vote in the Town of New Hartford.

14. On or about March 30, 2009, the Respondent returned to the Complainants a completed canvas notice where she indicated that she *"now resides at 454 Reservoir Rd, New Hartford."*

15. On or about April 16, 2009, following advice from Commission staff, the Respondent updated her driver's license with the Department of Motor Vehicles and on or about April 23, 2009 she supplied the Complainants with a copy of the same.

16. Additionally, the Respondent, on or about May 4, 2009 updated her voting records with the New Hartford Registrars of Voters by completing and submitting a change of address voter registration card to the Complainants.

17. Immediately thereafter, the Complainants mailed the Respondent a *"Notice of Acceptance of Application to Register to Vote."*

18. It is found that though Respondent was legally qualified to vote at the February 12, 2009 New Hartford referendum, the Complainants properly challenged her qualifications to vote at the referendum based on her two tenants stating that she did not live at the address she had listed, and did not permit her to vote based upon her failure or reluctance to complete and sign a *"Request for Transfer of Registration/Enrollment"* form and refusal to provide proof of residency in town.

19. The Registrars of Voters, pursuant to Connecticut General Statutes §§9-35(e), 9-172, and 9-232, properly challenged Respondent's qualifications to vote in town elections and demanded proof that she resided in town. Upon compliance, the Respondent's records with the New Hartford Registrars of Voters were updated on the official active list of electors.

ORDER

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

The complaint is hereby dismissed.

Adopted this ___27th___ day of ___May___ of 20_09_ at Hartford, Connecticut.

Stephen F. Cashman, Chairman
By Order of the Commission