

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by LeReine Frampton,
Newtown

File No. 2010-082

FINDINGS AND CONCLUSIONS

The Complainant, LeReine Frampton, the Democratic Registrar of Voters in Newtown, CT, filed this complaint with the Commission against Debbie Aurelia, the Newtown Town Clerk, pursuant to General Statutes § 9-7b. The Complainant alleges a number of issues, including printing errors on ballots and issues reconciling the absentee ballot application list, which are addressed to the extent they allege violations within the Commission's jurisdiction.

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

1. At all times relevant hereto, the Complainant, LeReine Frampton, was the Democratic Registrar of Voters in Newtown, CT.
2. At all times relevant hereto, the Respondent, Debbie Aurelia, was the Town Clerk of Newtown, CT.
3. The Commission notes that the instant complaint was filed, along with File No. 2010-83, in June, 2010, with the Complainant stating she is "very concerned" over the "integrity of the electoral process." The Complainant notes in her complaint that, in fairness, her daughter unsuccessfully challenged the Respondent for the office of Town Clerk in November, 2009.
4. The Complainant alleges that overseas absentee ballots for the 2008 presidential election were missing a minor presidential candidate.
5. Pursuant to General Statutes § 9-143b, the ballots in question were prepared by the Secretary of State and not the Town Clerk.
6. The only such ballots issued by the Town Clerk were revised ballots. The Commission finds those so issued did not contain any errors.

7. The Complainant further alleges that erroneous overseas absentee ballots were issued by the Respondent for the 2009 municipal election, specifically that these ballots excluded candidates and listed some candidates twice.
8. Unlike the presidential overseas absentee ballots referenced above, the preparation of the ballots described in paragraph seven is the responsibility of the Town Clerk as noted below. The Respondent admits that such incorrect ballots were mailed overseas and states that, when she became aware of the error, the ballots were corrected and reissued over a month prior to the election.
9. General Statutes § 9-434 provides, in relevant part:

Upon the filing with the clerk of a municipality of the names of party-endorsed candidates pursuant to section 9-390 or upon the filing with such clerk of petitions for contesting candidates pursuant to section 9-412, such clerk shall verify and correct the names of such candidates in accordance with the registry list of such municipality, endorse the same as having been so verified and corrected and use the same in the preparation of the ballot labels for the primary....

10. In declining to take further action to address this error, the Commission takes consideration of the following: the Respondent voluntarily corrected her error a month prior to the election; the Respondent's full cooperation with this investigation and admission of the error; and the length of time between when the error was known to the Complainant and the time of the filing of the instant complaint.
11. Although the expansive allegations in the instant complaint and File No. 2010-083, provide an extensive listing of issues between 2008 and 2010, there is no other allegation, or evidence contained in the investigation to indicate the Respondent made any further error in performing her duties under General Statutes § 9-434, apart from those described in paragraph seven for 2009 municipal election.
12. The Commission instructs the Respondent to take due care regarding her duties under General Statutes § 9-434. Should additional evidence arise concerning the performance of the Respondent's duties under General Statutes § 9-434, apart from those regarding the ballots for the 2009 municipal election, the Commission may choose to make further investigation and consider referral to the Chief State's

Attorney, pursuant to General Statutes § 9-7b (8), for prosecution under General Statutes § 9-355.¹

13. The Complainant further alleges that, for the 2009 municipal election, absentee ballots were issued that incorrectly spelled the name of a candidate for Legislative Council, James Belden.
14. The Respondent promptly contacted the Office of the Secretary of State regarding the issue. In a letter to the Respondent dated October 15, 2009, the Office of the Secretary of the State indicated, "If the candidate is willing to allow the error with no other reparation, then this office finds that the error is not likely to mislead the electors and we will not order a reprint."
15. The candidate, Mr. Belden, indicated to the Respondent by email dated October 16, 2009, that he would "allow the misprint to remain" on the ballot.
16. General Statutes § 9-153c (a) provides, in relevant part:

If a municipal clerk has omitted the name of a candidate, party or office designation, inserted an incorrect or misspelled name of a candidate, party or office designation, provided an absentee ballot applicant with a ballot which is not the correct ballot for his voting district, or incorrectly imprinted or failed to imprint the designation of a state or local question on an absentee ballot in the appropriate space, and if any such omission or error is likely to mislead any voter, he shall, as soon as he becomes aware of such omission or error, promptly mail to each applicant to whom such an absentee ballot has been issued, a correct absentee ballot, envelopes for its return and instructions, a statement explaining the error or omission including the correct name or question and a copy of this section. The municipal clerk shall inform the Secretary of the State when he proceeds under this subsection.

17. Pursuant to General Statutes § 9-3, the Secretary of the State is the Commissioner of Elections of the State of Connecticut whose opinions shall be presumed to correctly interpret the applicable section of election administration law.

¹ The power to impose civil penalties for a violation of § 9-434 is not among the Commission's civil penalty authority under § 9-7b or otherwise granted to the Commission.

18. Based on the above advice rendered by the Office of the Secretary of the State, the Commission concludes that the Respondent did not violate General Statutes § 9-153c (a) regarding the ballot listing for candidate Belden.
19. The Complainant further alleges that, for the 2008 general election, there were initially over two hundred additional absentee ballots cast than were accounted for on the Town Clerk's list.
20. The Respondent admits that, for the 2008 general election, initially the absentee ballot list and the Town Clerk's list did not reconcile. After hours of labor by the Complainant and the Assistant Town Clerk, the absentee ballot list and the Town Clerk's were ultimately reconciled. The Respondent notes the unusually high participation for the 2008 general election.
21. The evidence is unclear whether such ultimately reconciled discrepancy was due merely to disorderly record keeping or a more significant issue. Because this discrepancy was resolved and, in consideration of the burden of reconstructing records from 2008 for a complaint filed in 2010, the Commission declines to investigate the matter further.
22. The Commission notes that most of issues prompting the Complainant's concerns were apparently known to her in 2008 and 2009, for a complaint filed in June, 2010, and declines to further investigate the allegations. To the extent that the Complainant has future concerns, the Commission encourages the Complainant to file future complaints in a timelier manner consistent with such concern. Such timely filing is more likely to allow successful investigation in consideration of the likelihood of more readily recoverable records and fresher recollections.
23. Based on the above, the Commission declines to take further action regarding these allegations.
24. The Commission notes that it is reaching a similar conclusion for a related matter filed by the Complainant against the Respondent, *In the Matter of a Complaint by LeReine Frampton, Newtown* File No. 2010-083, and incorporates by reference the recommendations therein.

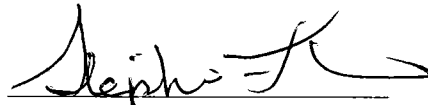
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ORDER

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

That no further action be taken.

Adopted this 18th day of January, 2012 at Hartford, Connecticut

A handwritten signature in black ink, appearing to read "Stephen F. Cashman", written over a horizontal line.

Stephen F. Cashman, Chairman
By Order of the Commission