

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by LeReine Frampton,
Newtown

File No. 2010-083

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 against the Respondent, including improper absentee ballot handing and polling place reentry irregularities, which are addressed to the extent that 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, Respondent, Debbie Aurelia, was the Town Clerk of Newtown, CT.
3. The Commission notes that the instant complaint was filed, along with File No. 2010-82, 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 the Respondent, as Town Clerk, must turn over absentee ballots to the Registrar between 10:00 a.m. and 12:00 noon and that the Respondent failed to do so by instead delivering the absentee ballots to the moderator during Newtown's annual 2010 budget referendum.
5. The Respondent admits to the above facts, but denies that such actions violated the General Statutes.
6. General Statutes § 9-140c (e) provides, in relevant part:

Ballots received not later than eleven o'clock a.m. on such last day before the election, primary or referendum shall be delivered by the clerk to the registrars not earlier than ten o'clock a.m. and not later than twelve o'clock noon on the day of the election or primary and at twelve o'clock noon on the day of a referendum for counting, *provided that the registrars may at their discretion direct the clerk to retain for later delivery as many of such ballots as they deem necessary to preserve the secrecy of ballots to be counted at later times as provided in this section.* [Emphasis Added.]

7. According to the Respondent, in compliance with an agreement with the Registrars and at the direction of the Registrars, the Town Clerk of Newtown has always, since at least June, 2007, delivered ballots to the Registrar at or about 6:00 p.m. The Complainant has been the Democratic Registrar of Voters during this entire period of time and during the entire period in which the Respondent has been the Town Clerk.
8. As to the present allegation regarding Newtown's annual 2010 budget referendum, according to the Respondent, at 6:00 p.m. the Respondent went to the Complainant's office and she was not present. Registrar Karin Aurelia was present and directed the Town Clerk to deliver the absentee ballots directly to the moderator. At the Registrar's direction, the absentee ballots were so delivered.
9. Based on such representation, and noting the discretion given to Registrars under General Statutes § 9-140c (e), the Commission concludes that there is insufficient evidence to find a violation of § 9-140c (e) against the Respondent.
10. The Complainant further alleges that the Respondent violated the reentry law during the same election by arriving at the polling place and delivering absentee ballots to the moderator as described above. As indicated above, the evidence supports that the Respondent provided the absentee ballots to the moderator at the direction of the Registrar.
11. General Statutes § 9-601 (12) provides:

No person except those permitted or exempt under this section or section 9-236a and primary or election officials and party checkers appointed under section 9-235 shall be allowed within any polling place except for the purpose of casting his vote....

12. Noting the specific direction of the other Registrar and that the Respondent is only alleged to have arrived at the polling place rather than entering into it, the Commission finds that further investigation is not warranted and declines to find a violation of § 9-601 (12) against the Respondent. The Commission notes that while entry *into* the polling place remains prohibited, some degree of presence *at* the polling place was necessary to conform to the Registrar's instructions.
13. The Commission recommends that, if such issues remain a point of contention between the parties, a specific location and time should be worked out between the parties, including both Registrars, in advance and in writing.
14. The Complainant states that for subsequent referendums she clarified that she would be picking up the absentee ballots "as per statute."
15. The Respondent admits that, subsequently, the Complainant submitted letters to the Respondent stating, "I will pick up and sign for the absentee ballots from your office between 10:00 a.m. and noon as per state statute." According to the Respondent, in accordance with these letters, which altered the prior agreement between the Town Clerk's office and the Registrars set forth above, the Respondent complied with the request and provided the absentee ballots to the Registrar between 10:00 a.m. and noon on the date of any subsequent referenda. The allegations contain no allegations concerning a breach of this subsequent agreement.
16. Based on the above representations, the Commission concludes that there is insufficient evidence to warrant further investigation or to merit finding a violation of § 9-140c (e).
17. The Complainant further alleges that the absentee ballots for Newtown's third budget referendum in 2010 were issued before the date on which the referendum was officially set.
18. The evidence gathered in the course of the investigation indicates the following: The June 8, 2010 date for the referendum was provided to the Respondent by the First Selectman at the meeting of the Newtown Legislative Council on May 19, 2010, as reflected by the First Selectman's Report in the meeting minutes. A meeting of the Legislative Council was held on May 19, 2010 in which the First Selectman indicated that the Town Meeting would be held on June 1, 2010, and that the referendum would take place on June 8, 2010. On May 24, 2010, the Board of Selectmen set the date of the Town Meeting for June 1, 2010. As represented by corporation counsel, and reflecting in the minutes of such meeting, the Newtown

Board of Selectmen removed the budget from the call of that special town meeting so that it would be sent directly to referendum. Thus, as represented by corporation counsel, the sole purpose of the special town meeting, as indicated in the Board of Selectmen minutes, was to set the date and time of the budget referendum. At the Town Meeting on June 1, 2010 the referendum was set for, and, in fact, held on June 8, 2010. No absentee ballots were issued prior to May 24, 2010. All absentee ballots issued with respect to the referendum included the correct date of June 8, 2010 as the date for the referendum.

19. General Statutes § 9-369c (c) provides:

Upon receipt of the written form of the question or proposal to be voted on at any such referendum, the municipal clerk shall immediately prepare and print absentee ballots for the referendum. The phrasing of the question or proposal on the absentee ballots shall be identical to the phrasing on the ballot or ballot label to be used for voting in person at the referendum.

20. General Statutes § 7-7 provides that, “The selectmen of the town may, not less than five days prior to the day of any such meeting, on their own initiative, remove any item on the call of such meeting for submission to the voters... .”¹

21. The Commission notes that despite the First Selectman’s representation of the intended date, the date for the referendum was not officially set until the town meeting of June 1, 2010. While the Respondent’s determination of the date proved to be correct, and without identified and material harm, it did precede the setting of the official date for the referendum. Nevertheless, as represented by corporation counsel and reflected in the minutes of the Board of Selectmen, the language of the referendum was set by the Board of Selectmen on May 24, 2010, the first date the absentee ballots in dispute were issued.

22. Based on the above, specifically corporation counsel’s application of General Statutes § 7-7 and the fact that, in the absence of an official set referendum date, the Respondent made her best efforts to comply with § 9-369c (c) by preparing absentee ballots, the Commission declines to take further action regarding this allegation. The Commission recommends the Respondent continue to seek corporation counsel’s advice regarding similar future matters. Unlike the Commission, corporation

¹ The Commission has no authority to directly adjudicate General Statutes § 7-7.

counsel may provide advice to municipal officers concerning the application of both the relevant statutes and the Newtown Town Charter.

23. The Complainant further alleges that in November of 2009 she personally turned in an absentee ballot for an unidentified family friend who was called out of town earlier than expected and that this ballot was not included in the absentee ballot check off list.
24. The Complainant has not identified the individual who allegedly cast such absentee ballot in the Complaint.
25. In the absence of specific allegations or evidence, the Commission concludes there is insufficient evidence to warrant a finding of a violation of General Statutes § 9-140b (a). The Commission notes that General Statutes § 9-140b (a) permits an individual, such as the Complainant, to submit an absentee ballot as a designee *only* “of an ill or physically disabled ballot applicant.” Accordingly, while submitting an absentee ballot on behalf of an out of town “family friend” is not necessarily a *per se* violation, it remains distinctly possible that, in the absence of the above medical status, such absentee ballot was not cast in accordance with § 9-140b (a).
26. Commission notes that many of the issues prompting the Complainant’s concerns were apparently known to her since November, 2009, for a complaint filed in June, 2010, and declines to further investigate such allegations. To the extent that the Complainant has future concerns, the Commission encourages the Complainant to file any future complaints in a timelier manner consistent with such concern. Such timely filing is more likely to merit further investigation in consideration of the likelihood of more readily recoverable records and fresher recollections.
27. 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. 2010-082, and incorporates by reference the recommendations therein.

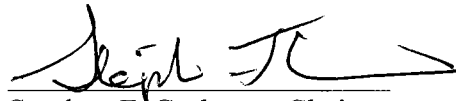
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ORDER

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