

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Jose L. Morales, Waterbury

File No. 2012-119

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Hippolito Gonzalez, of the City of Waterbury, County of New Haven, State of Connecticut, (hereinafter "Respondent"), and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Complainant alleged that Respondent assisted individuals with absentee ballot applications pertaining to the August 14, 2012 Waterbury Democratic Primary (hereinafter "Primary"). Further, Complainant alleged that Respondent assisted these individuals to vote the absentee ballots and then took possession of the ballots in violation of the law.
2. The unauthorized possession of an absentee ballot is a violation of General Statutes § 9-140b (d). An agent of a candidate, political party or committee is prohibited by § 9-140b (e) from being present while absentee ballots are executed.
3. General Statutes, § 9-140b provides in pertinent part:
(d) No person shall have in his possession any official absentee ballot or ballot envelope for use at any primary, election or referendum except the applicant to whom it was issued, the Secretary of the State or his or her authorized agents, any official printer of absentee ballot forms and his designated carriers, the United States Postal Service, any other carrier, courier or messenger service recognized and approved by the Secretary of the State, any person authorized by a municipal clerk to receive and process official absentee ballot forms on behalf of the municipal clerk, any authorized primary, election or referendum official or any other person authorized by any provision of the general statutes to possess a ballot or ballot envelope.

(e) *No (1) candidate or (2) agent of a candidate, political party or committee, as defined in section 9-601, shall knowingly be present when an absentee ballot applicant executes an absentee ballot, except (A) when the candidate or agent is (i) a member of the immediate family of the applicant or (ii) authorized by law to be present or (B) when the absentee ballot is executed in the office of the municipal clerk and the municipal clerk or an employee of the municipal clerk is a candidate or agent.*
[Emphasis added.]

4. Respondent submitted a notarized statement to the Commission in response to the complaint and denied the allegations. Additionally, Respondent attached to the aforementioned response statements that purported to be from witnesses who voted absentee ballots at the Primary. These witness statements were notarized and each included a denial that Respondent told them who to vote for.
5. After investigation, and extensive field interviews of potential witnesses by Commission staff, the Commission finds there was insufficient evidence that Respondent was present while individuals voted absentee ballots for the Primary.
6. The Commission finds a lack of evidence that Respondent was present while individuals executed their absentee ballots for the Primary, in violation of General Statutes § 140b (e), and therefore dismisses this allegation.
7. Complainant also alleged that Respondent took possession of absentee ballots for the Primary when he was unauthorized to do so in violation of General Statutes § 9-140b (d).
8. As a result of field interviews of individuals who cast absentee ballots, Commission staff found credible evidence that Respondent took possession of an absentee ballot when unauthorized to do so prior to the Primary. Specifically, Commission investigators were provided evidence from more than one source indicating that they witnessed Respondent taking possession of an individual's absentee ballot for the Primary.
9. The Commission, for reasons detailed herein, concludes that Respondent violated General Statutes § 9-140 b (d) by taking possession of at least one absentee ballot for the Primary when not legally qualified to do so.
10. Commission investigators also found evidence that Respondent provided false information in response to the Complaint. Moreover, the Commission finds that Respondent in an attempt to mislead the Commission encouraged, and provided the Commission on behalf of a witness, a false statement that was improperly notarized in the absence of the purported affiant.

11. The Commission has historically viewed and treated violations of General Statutes § 9-140 b (d) as serious offenses. Moreover, the Commission has consistently assessed civil penalties in such cases. See *In the Matter of a Complaint by David F. Walsh*, Stafford Springs, File No. 2007-423, *In the Matter of a Complaint by Henry E. Parker*, New Haven, File No. 2008-128 and *In the Matter of a Complaint by Lori A. Kabach, Danbury Town Clerk*, Danbury, File No. 2009-145.
12. The Commission notes that pertaining the unauthorized possession of absentee ballots in violation of General Statutes § 9-140b (d), the Respondent is liable for both civil penalties and a potential referral by the Commission to the Chief State's Attorney for criminal prosecution.
13. Section 9-7b-48 of the Regulations of Connecticut State Agencies provides that the Commission may consider mitigating or aggravating circumstances when determining whether to impose a civil penalty. The Commission may consider:
 1. the gravity of the act or omission;
 2. the amount necessary to insure immediate and continued compliance;
 3. the previous history of similar acts or omissions; and,
 4. whether the person shown good faith in attempting to comply with the applicable provisions of the General Statutes.
14. The Commission stresses that the Respondent did *not* exercise "good faith" in response to the Complaint and investigation. To the contrary, the Commission finds evidence that Respondent manipulated the content of a statement submitted to the Commission regarding its investigation and assisted a notary public in notarizing a witness statement in the absence of the witness and then submitted that statement to the Commission.
15. The Commission therefore concludes that Respondent's conduct in this instance was both egregious and aggravating in these circumstances. The Commission finds particularly troubling Respondent's utter lack of good faith in dealing with Commission staff pertaining to the exercise of its investigative authority pursuant to § 9-7b. The Commission finds particularly troubling Respondent's attempts to deceive and hinder Commission attempts to verify the underlying allegations of violations of General Statutes § 140b (d).
16. Notwithstanding the seriousness with which the Commission regards Respondent's conduct and violations in this matter, the Commission nevertheless declines to exercise its authority pursuant to General Statutes § 9-7b (8) to refer this matter to the Chief State's Attorney because of insufficient evidence that Respondent systematically attempted to gain possession of absentee ballots for the Primary.

17. Pertaining to this Complaint and investigation, where there are aggravating circumstances surrounding Respondent's conduct prior to and after the Complaint, the Commission considers assessing a civil penalty in the amount of one thousand dollars (\$1,000.00) against Respondent for his unauthorized possession of an absentee ballot as both substantial and consistent with its prior application and enforcement of General Statutes § 140b (d).
18. The Respondent admits all jurisdictional facts and agrees that this agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
19. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
20. Respondent admits all jurisdictional facts and waives:
 - (a) Any further procedural steps;
 - (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this agreement.
21. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

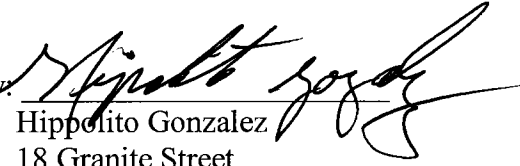
ORDER

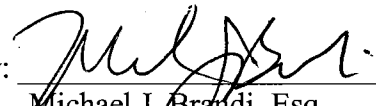
IT IS HEREBY ORDERED THAT the Respondent shall pay a civil penalty of one thousand dollars (\$1,000.00) to the Commission on or before March 19, 2014.

IT IS FURTHER ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-140b (d).

The Respondent:

For the State Elections Enforcement Commission:

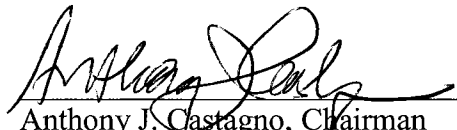
By: 
Hipolito Gonzalez
18 Granite Street
Waterbury, Connecticut

By: 
Michael J. Brandi, Esq.
Executive Director & General Counsel
and Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, CT 06106

Dated: 3/12/14

Dated: 3/18/14

Adopted this 19th day of March, 2014 at Hartford, Connecticut.


Anthony J. Castagno, Chairman
By Order of the Commission

**RECEIVED
STATE ELECTIONS**

MAR 18 2014

ENFORCEMENT COMMISSION