

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Daniel Garrett, Hamden

File No. 2012-154A

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Hamden Republican Registrar Anthony Esposito, Hamden Democratic Registrar Rose Mentone 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. At all times relevant hereto, Anthony Esposito was the Republican Registrar of Voters for Hamden and Rose Mentone was the Democratic Registrar of Voters for Hamden (the "Registrars").
2. Acting in concert, the Registrars acknowledge sending the informational cards approximately two weeks before the 2012 general election (the "Cards"), as alleged.
3. The Registrars state that this has been the custom and practice of the Registrars' office for primaries and elections since before either of them became Registrars. Democratic Registrar Mentone specifically stated that she obtained template copies of the Card from the files of her Democratic predecessor.
4. The Cards state that "identification is required at the polls." The Cards may be read as making an implicit, but not explicit request, for a form of existing written identification.
5. In the absence of other forms of written identification, General Statutes § 9-261 permits electors to establish their identification with a sworn statement. Under such statute, electors may, "on a form prescribed by the Secretary of the State, write the elector's residential address and date of birth, print the elector's name and sign a statement under penalty of false statement that the elector is the elector whose name appears on the official checklist. Such form shall clearly state the penalty of false statement."
6. The Registrars state that, after communications with the Office of the Secretary of the State, a message was sent from that office clarifying the identification requirements on election day.
7. Subsequent to such communication, the Registrars agreed, between their two offices, to modify all such notices in the future and replace the word "requested" for "required."

Additionally, the Registrars report that they have agreed: (1) to re-train their moderators and official town checkers about voter identification requirements including, but not limited to, General Statutes § 9-261; and (2) ensure that each moderator has a supply of the affidavits needed under General Statutes § 9-261 when a voter does not provide an existing written identification.

8. To date, the Commission has received no complaint or other evidence indicating that any elector was, in fact, improperly refused the right to vote in Hamden based on an inappropriate application of the voter identification laws in the 2012 general election, however, staff cannot be certain that the Cards did not have some impact.
9. Based on the above, the Commission finds no violation as alleged in this matter. Nevertheless, to provide a full resolution in this matter in the interest of preserving each elector's right to vote, the Registrars have agreed to enter into a consent order, pursuant to General Statutes § 9-7b (a) (6), formalizing the modifications they have already agreed to perform between their two offices.
10. The Registrars acknowledge and are aware that, in the Consent Order in *Complaint of Christine Halfar, Danbury*, File No. 2012-086, the Commission took the position that, under General Statutes § 9-249, registrars were jointly required to train poll workers in the applicable voter identification laws, including General Statutes § 9-261. Under the theory presented in such consent order, for registrars who fail to jointly conduct their duties in the manner and extent required by § 9-249 and § 9-261, the Commission may seek to impose civil penalties against such Registrars of up to \$2,000.00 per offense.
11. Pursuant to General Statutes § 9-3, the, "Secretary of the State, by virtue of the office, shall be the Commissioner of Elections of the state, with such powers and duties relating to the conduct of elections as are prescribed by law and, unless otherwise provided by state statute, the secretary's regulations, declaratory rulings, instructions and opinions, if in written form, shall be presumed as correctly interpreting and effectuating the administration of elections and primaries under this title, except for chapter 155..."
12. Should the Registrars wish to rely on any advice from the Office of the Secretary of State contrary to the implementation of the agreements in this consent order, they acknowledge that the Commission shall only defer to such advice to the extent that it is in writing and provided to the Commission by the Registrars.
13. The Registrars admit all jurisdictional facts and agree 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 Registrars shall receive copies hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.

14. The Registrars waive:

- 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.

15. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next available meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by either party in any subsequent hearing, if the same becomes necessary.

16. Upon the Registrars' compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings pertaining to this matter.

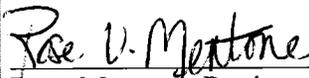
ORDER

BY THE CONSENT AND AGREEMENT OF THE REGISTRARS, IT IS ORDERED THAT:

The Registrars shall implement the agreed upon modifications and practices identified in paragraph seven no later than June 1, 2013.

The Registrars:


Anthony Esposito, Registrar (R)
Hamden, CT


Rose Mentone, Registrar (D)
Hamden, CT

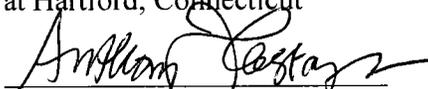
Dated: 3/22/13

For the State of Connecticut:

BY: 
Michael J. Brandt, Esq.
Executive Director & General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT

Dated: 3/27/13

Adopted this 17th day of April of 2013 at Hartford, Connecticut


Anthony J. Castagno, Chair
By Order of the Commission