

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Richard V. Nelson
and Timothy Denman, *et al.*, Hartford

File No. 2013-016

AGREEMENT CONTAINING ORDER

This agreement, by and between the City of Hartford Office of Registrars of Voters, County of Hartford, State of Connecticut, and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with the Regulations of Connecticut State Agencies § 9-7b-54 and Connecticut General Statutes § 4-177 (c). In accordance herewith, the parties agree that:

1. The Hartford Office of the Registrars of Voters (hereinafter "HROV") pursuant to General Statutes §§ 9-228 to 9-237a, inclusive, conducted and administered the election of November 6, 2012 in the City of Hartford as was its duty and jurisdiction both prior to and after said election.
2. On March 8, 2013, David Bedell, Treasurer of the Connecticut Green Party, forwarded an *Affidavit of Complaint* to the Commission by Hartford residents Richard V. Nelson, Timothy E. Denman, David C. Samuels, Joanne Bauer and Edward J. DuBrule, Jr. (hereinafter "Complainants").
3. Complainants alleged that the HROV failed to record and report votes for registered write-in candidates at the November 6, 2012 election. Specifically, the Complainants alleged that:
 - a. Complainant Nelson cast votes for registered write-in candidates Stephen Durham (for President) and Christopher Lopez (for Vice President) at the District 11 polling place that were not counted;
 - b. Complainant Denman cast votes for registered write-in candidates Stephen Durham and Christopher Lopez, at the District 11 polling place that were not counted;
 - c. Complainant Samuels cast a vote for registered write-in candidate Jill Stein (for President) at the District 5 polling place that was not counted;

- d. Complainant Bauer cast votes for registered write-in candidates Jill Stein (for President) and Cheri Honkala (for Vice President) at the District 5 polling place that were not counted; and,
 - e. Complainant DuBrule cast a vote for registered write-in candidate Jill Stein (for President) at the District 5 polling place that was not counted.
4. Connecticut General Statutes § 9-265 provides, in pertinent part:
(a) *A write-in vote for an office, cast for a person who has registered as a write-in candidate* for the office pursuant to subsection (b) of section 9-175 or section 9-373a, *shall be counted and recorded...*
[Emphasis added.]
5. General Statutes § 9-314 provides, in pertinent part:
(a) As used in this subsection, “moderator” means the moderator of each municipal election in each town not divided into voting districts ... The moderator shall forthwith *transmit to the Secretary of State the results of the vote for each office contested at such election by facsimile machine or other electronic means prescribed by the Secretary of State, not later than midnight on election day...* [Emphasis added.]
6. Section 9-242a-23 of the Regulations of Connecticut State Agencies further provides the individual responsible for counting and recording the write-in ballots. That provision provides as follows, in pertinent part:
The polling place officials shall complete the moderator’s returns and shall be guided by instructions of the Secretary of the State. The moderator and assistant registrar of voters shall record on the moderator’s returns the voting tabulator result totals for each candidate and question. *The Moderator and assistant registrar of voters* shall unlock and remove all the ballots from the write-in bin. They shall record the number of ballots in the write-in bin. *They shall count by hand the votes cast of the office in which the*

elector indicated a write-in vote. They shall record on the moderator's returns the write-in votes in accordance with the law governing write-in ballots.

[Emphasis added.]

7. The Commission finds that the HROV was generally responsible for the accurate administration of the November 6, 2012 election, including, but not limited to the counting, recording and reporting of all write-in votes for registered write-in candidates.
8. In the course of this investigation the Respondents have conducted a recount of write-ins and amended the returns for the November 6, 2012 election. Specifically, the HROV scheduled and conducted a recount of write-in votes for Complainants respective voting Districts 5 and 11. The recount process was completed as of August 19, 2013.
9. The Commission finds that the recount of votes for registered write-in candidates cast on November 6, 2012, conducted pursuant to this Complaint and investigation, indicated there were three (3) write-in votes for Stephen Durham for President and Christina Lopez for Vice President, thirty-five (35) votes for Jill Stein for President, two (2) votes for Raja Hooja for U.S. Senate and 3 (3) votes for Jeff Russell for U.S. Senate.
10. The votes recorded as a result of the recount detailed herein were all for registered write-in candidates and appeared as such on a list prepared and provided by the Office of the Secretary of the State to municipalities prior to the November 6, 2012 election. The complete tally of write-in votes was not originally reported by HROV at the November 6, 2012 election and precipitated this complaint and investigation.
11. Further, the Commission finds that, as a result of that recount, and by cooperation and agreement of the HROV, the corrected returns were transmitted to the Office of the Secretary of the State and the City of Hartford's Town Clerk's office.
12. The Commission notes, that the HROV have been cooperative throughout this investigation and through City of Hartford Corporation Counsel sought to facilitate the recount and reporting of results in order to resolve this matter in an efficient manner.

13. The Commission finds that there was no indication that failures to count write-in votes at the November 6, 2012 election in Districts 5 and 11 were either willful or intentional. Nevertheless, the Commission concludes that the HROV was responsible to ensure that all write-in votes for registered candidates were recorded and transmitted pursuant to General Statutes §§ 9-265 and 9-314. Moreover, the Commission concludes that the HROV ultimately bore the responsibility for ensuring the accurate recording and transmitting of votes at the November 6, 2012 election in the City of Hartford.
14. The HROV 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 HROV shall receive copies hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
15. 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 HROV and may not be used as an admission by either of the parties in any subsequent hearing, if the same becomes necessary.
16. The HROV 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.
17. Upon the adoption of this agreement with the HROV and the Order hereinafter stated, the Commission shall not initiate any further proceedings against the HROV with respect to this matter.

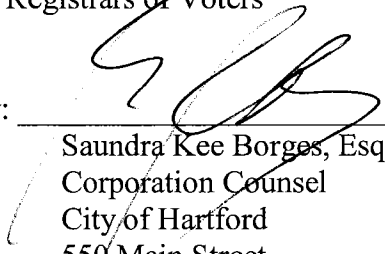
ORDER

IT IS HEREBY ORDERED that the City of Hartford Office of Registrars of Voters is on notice of the requirements of General Statutes §§ 9-265 and 9-314; and will take extra care when overseeing the recording and transmitting of write-in votes in future elections.

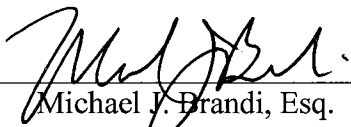
For the City of Hartford Office:
Of Registrars of Voters

For the State Elections Enforcement Commission:

By: _____


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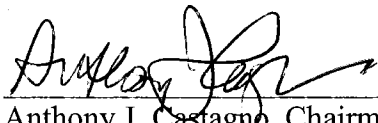
Dated: _____

2/4/14

Dated: _____

2/20/14

Adopted this 19th day of February, 2014 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission