

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Janet L. Aiken, Clinton

File No. 2015-181

FINDINGS AND CONCLUSIONS

The Complainant alleges that the Respondent, in her role as Town Clerk, improperly assessed late filing fees against eight individuals in the Town of Clinton.

PARTIES

1. Complainant, Janet L. Aiken was, at all times relevant hereto, the Chairman of the Clinton First Party and a candidate for the Board of Selectmen in the Town of Clinton.
2. Respondent, Sharon Uricchio was, at all times relevant hereto, the Town Clerk for the Town of Clinton.

BACKGROUND

3. The facts of this matter are not in dispute.¹
4. On August 13, 2015, the Clinton First Party voted to endorse a slate of candidates for the November 3, 2015 municipal election.
5. On September 2, 2015, the Complainant delivered the Clinton First Party's Certificate of Party Endorsement to the Respondent.
6. On September 3, 2015, the Respondent issued letters to eight candidates listed on the Clinton First Party's Certificate of Party Endorsement, advising them that they had "missed a deadline for filing [the] SEEC Form 1 along with Form 1A or 1B[.]"

¹ The Commission notes all relevant parties in this matter appear to have been acting in a good faith attempt to execute their responsibilities under Connecticut's election laws.

7. The September 3, 2015 letters further advised that the recipients were “subject to a mandatory \$100 late filing fee.”
8. Five of the eight recipients of the September 3, 2015 letter paid the \$100 fee.
9. Three of the eight recipients of the September 3, 2015 letter did not pay the \$100 fee.
10. On September 15, 2015, Complainant filed the instant Complaint, alleging that the Respondent had improperly assessed the late filing fees.

LAW

11. General Statutes § 9-390 (d) provides:

The selection of party-endorsed candidates in the manner provided in subsection (a) or (c) of this section and the selection of delegates to conventions in the manner provided in subsection (b) of this section shall be made and certified to the clerk of the municipality or the Secretary of the State, as the case may be, within the time specified in section 9-391.

12. General Statutes § 9-391 (a) provides:

Each endorsement of a candidate to run in a primary for the nomination of candidates for municipal office to be voted upon at a municipal election, or for the election of town committee members shall be made under the provisions of section 9-390 not earlier than the fifty-sixth day or later than the forty-ninth day preceding the day of such primary. In the case of an endorsement of a candidate for a municipal office of state senator or state representative, such endorsement may be made of a candidate whose name appears upon the last-completed enrollment list of such party within the municipality or political subdivision within which such candidate is to run for nomination. The endorsement shall be certified to the clerk of the municipality by either (1) the chairman or presiding officer, or (2) the secretary of the town committee, caucus or convention, as the case may be, not later than four o'clock p.m. on the forty-eighth day preceding the day of such primary. Such certification shall be signed by such candidate and contain the name and street address of each person so endorsed, the title of the office or the position as committee

member and the name or number of the political subdivision or district, if any, for which each such person is endorsed. Such certification shall be made on a form prescribed by the Secretary of the State or on such other form as may comply with the provisions of this subsection. If such a certificate of a party's endorsement is not received by the town clerk by such time, such certificate shall be invalid and such party, for purposes of sections 9-417, 9-418 and 9-419, shall be deemed to have neither made nor certified such endorsement of any candidate for such office.

13. General Statutes § 9-601 (1) provides, in relevant part:

“Candidate” means an individual who seeks nomination for election or election to public office whether or not such individual is elected, and for the purposes of this chapter and chapter 157, an individual shall be deemed to seek nomination for election or election if such individual has (A) been endorsed by a party or become eligible for a position on the ballot at an election or primary[.]

14. General Statutes § 9-604 (a) provides:

Each candidate for a particular public office or the position of town committee member shall form a single candidate committee for which he shall designate a treasurer and a depository institution situated in this state as the depository for the committee's funds *and shall file a committee statement containing such designations, not later than ten days after becoming a candidate*, with the proper authority as required by section 9-603. The candidate may also designate a deputy treasurer on such committee statement. The treasurer and any deputy treasurer so designated shall sign a statement accepting such designation which the candidate shall include as part of, or file with, the committee statement. (emphasis added).

15. General Statutes § 9-623 (b) (1) provides:

If any treasurer fails to file any statement required by section 9-608, or if any candidate fails to file either (A) a statement for the formation of a candidate committee as required by section 9-604, or (B) a certification pursuant to section 9-603 that the candidate is

exempt from forming a candidate committee as required by section 9-604, within the time required, the treasurer or candidate, as the case may be, shall pay a late filing fee of one hundred dollars.

ANALYSIS

16. In order to reach a final determination in this matter, the Commission must first address, whether the “ten days after becoming a candidate” referenced in General Statutes § 9-604 (a) begins to run when a party votes to endorse a candidate, or whether that time period begins to run when such party delivers the endorsement to the proper authority.
17. Pursuant to General Statutes § 9-604 (a), a candidate must register with the proper authority within ten days “after becoming a candidate.”
18. General Statutes § 9-601 (11) provides that an individual shall be deemed to be a candidate when, *inter alia*, such individual has “been endorsed by a party.”
19. Thus, the date that an individual is “endorsed by a party” is also the date when the ten day period to register with the proper authority as a candidate begins.
20. However, the Supreme Court of Connecticut has been clear that an endorsement is effective not when it is made, but when it is received by the proper authority. *See Butts v. Bysiewicz*, 298 Conn. 665 (2010). *See also* General Statutes § 9-391 (a) (“If such a certificate of a party's endorsement is not received by the town clerk by such time, such certificate shall be invalid and such party, for purposes of sections 9-417, 9-418 and 9-419, shall be deemed to have neither made nor certified such endorsement of any candidate for such office.”)
21. It follows that, for the purposes of General Statutes §§ 9-601 and 9-604, an individual has not been “endorsed by a party” until that endorsement is delivered to the proper authority, in this case the town clerk.
22. Accordingly, it is the delivery of an endorsement to the proper authority (i.e., the town clerk) that marks the beginning of the ten day time period in which a candidate must file his or her registration.
23. Thus, because the Respondent assessed late filing fees only one day after receiving the Clinton First endorsement, it is the conclusion of the Commission that such fees were not due and owing at the time they were assessed.

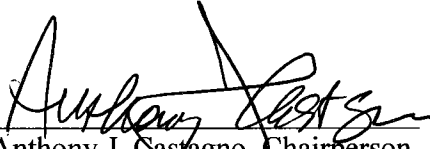
24. The Commission has been clear in the past that a Town Clerk's failure to make reasonable efforts to collect a late fee, when it is due and owing, is a violation within the jurisdiction of the Commission. *See SEEC initiate investigation based on a referral from the Bridgeport Corporation Counsel*, File No. 2013-141.
25. However, in this case, rather than fail to perform a proscribed duty, the Respondent did act, but did so under an inadvertent misinterpretation of the law.
26. In situations such as this, the Commission's powers are limited. While the Commission is vested with the power to determine when a late fee is due and owing pursuant to General Statutes § 9-623 (b) (1), it is not so vested with the power to sanction an official who issues a fee based upon a misinterpretation of this statute, nor is it empowered to order the return of such funds, as is requested by the Complainant. Such claims are properly within the jurisdiction of the Courts.
27. Accordingly, the Commission concludes that this matter should be dismissed.

ORDER

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

That the matter is dismissed.

Adopted this 9th day of March, 2016 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission