

SEP 25 2017

ENFORCEMENT COMMISSION

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

Referral of Town Clerk Lori Kiback, Wilton

File No. 2016-101

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Sharon G. Macey, of the Town of Wilton, County of Fairfield, State of Connecticut 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. This matter comes by way of a referral from Lori Kiback, the Wilton Town Clerk at all times relevant.
2. The Referring Official alleges that she received two separate applications for an absentee ballot for the November 8, 2016 General Election for Maxwell Nathan Macey with signatures that did not match, suggesting that the applications were signed and submitted by two different individuals, one or both of whom were not Maxwell Nathan Macey.
3. The issue in this case was caught by the Referring Official after receiving a second application for Maxwell Nathan Macey. She noticed that the applications bore the same information, but were filled out with different handwriting and a different signature. After pulling his voter registration application ("VRA"), she discovered that the signature from the second application, but not the first application, matched his VRA signature.
4. After review by Commission staff, the two applications submitted with the Referral bear the same information for Maxwell Nathan Macey, but it is clear that the handwriting and signatures on each were made by two different individuals.
5. Comparing the signatures to Maxwell Nathan Macey's registration card, one of the applications appears to be that of Mrs. Sharon G. Macey, Maxwell's mother.
6. After staff reached out to Mrs. Sharon G. Macey, she admitted that she filled out the absentee ballot application on behalf of her son. She submitted a letter to the Commission as follows:

Shortly before the 2016 general election I applied for an absentee ballot for my son, who was in California at college. He was interested in voting in the general election. To obtain the absentee ballot I went to my local Town Hall and filled out an application. I signed my son's

name at the bottom of the application and requested that an absentee ballot be sent to him in California. In completing the application, I had not carefully read the text indicating how one person is able to apply for an absentee ballot on behalf of another. I did not intend to mislead anyone, but only to enable my son to vote. My son subsequently applied for an absentee ballot in his own name and cast a ballot. To be clear, there was never any intent to cast more than one ballot and my son cast only one ballot. I regret my error and will certainly be more careful in the future.

7. While it is permissible for another individual to assist a voter in filling out her absentee ballot application, the assister must identify herself. Moreover, only the applicant may sign the application for an absentee ballot application. General Statutes § 9-140, reads in pertinent part

(a) Application for an absentee ballot shall be made to the clerk of the municipality in which the applicant is eligible to vote or has applied for such eligibility. *Any person who assists another person in the completion of an application shall, in the space provided, sign the application and print or type his name, residence address and telephone number.* Such signature shall be made under the penalties of false statement in absentee balloting. . . . *The application shall be signed by the applicant under penalties of false statement in absentee balloting.* . . . (Emphasis added.)

8. Here, by assisting her son in the completion of his application without identifying herself as an assister, the Commission concludes that Sharon G. Macey violated General Statutes § 9-140 (a).
9. Additionally, the Commission concludes that Mrs. Macey violated General Statutes § 9-140 (a) by signing her son's name on his behalf, which constituted a false statement on the application.¹
10. Connecticut General Statutes § 9-7b (a) (2) provides that the Commission may assess a civil penalty of two thousand dollars per offense against any person the commission finds to be in violation of any provision of chapter 145, part V of chapter 146, part I of chapter 147, chapter 148, section 7-9, section 9-12, subsection (a) of section 9-17, section 9-19b, 9-19e,

¹ The Commission has noted in prior matters that even the permission of the voter does not give the other individual the right to sign on the voter's behalf where the voter's capacity to sign the document is not in question. See *Referral of Wilton Town Clerk and Registrar of Voters*, SEEC File No. 2012-168.

9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h, 9-23j to 9-23o, inclusive, 9-23r, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a, 9-42, 9-43, 9-50a, 9-56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-232i to 9-232o, inclusive, 9-404a to 9-404c, inclusive, 9-409, 9-410, 9-412, 9-436, 9-436a, 9-453e to 9-453h, inclusive, 9-453k or 9-453o,. Pursuant to Regulations of Connecticut State Agencies §9-7b-48, in determining the amount of a civil penalty, the Commission shall consider, among other mitigating and aggravating factors:

- (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 has shown good faith in attempting to comply with the applicable provisions of the General Statutes.

11. While there appears here to be no question that Mrs. Macey was careless in reviewing the form that she was filling out and signing on her son's behalf, there does not appear to have been any fraudulent intent on behalf of either she or her son. As is common in such cases, she did not want him to miss the opportunity to cast his ballot.
12. Mrs. Macey maintains that her efforts on behalf of her son were motivated by altruism, not fraud. Mrs. Macey wanted her son to exercise his right, but behaved rashly in her efforts to help him do so.
13. It should also be noted that the vetting process of absentee ballot applications, required by law and successfully implemented by the Town Clerk worked as it should have in this case. She was vigilant in her review of the absentee ballots; only one absentee ballot was issued and only one vote was ultimately cast.
14. This type of violation is not uncommon before the Commission. *See, e.g., Referral of Wilton Town Clerk and Registrar of Voters*, SEEC File No. 2012-168; *Referral of Town Clerk Carolyn Soltis, Cheshire*, File No. 2008-142 (friend fills out application for another friend and signs on their behalf and fails to sign as an assister); *Complaint of Joyce P. Mascena*, File No. 2008-128 (father fills out applications for both wife and son and signs on their behalf and fails to sign as an assister); *Complaint of Aleeta Looker*, File No. 2008-125 (mother fills out application and signs on two sons' behalf); *Complaint of Andrew Garfunkel*, SEEC File No. 2003-252 (father, with authorization of son, fills out application and signs on son's behalf and fails to sign as an assister). Each of these cases ended in a \$200 civil penalty.
15. The Respondent has no prior history before the Commission and is genuinely and demonstrably remorseful for the actions that she took. However, she maintains, as stated

above, that she had no intent to defraud any person, merely to help her son exercise his right to vote.

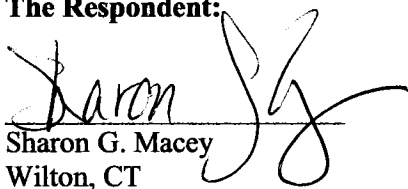
16. In consideration of the aforesaid aggravating and mitigating circumstances in this matter, the Commission concludes, and the Mrs. Macey agrees, that an appropriate civil penalty here is \$200, consistent with prior similar matters.
17. The Respondent admits all jurisdictional facts and agrees that 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.
18. The Respondent 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.
19. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if the same becomes necessary.
20. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings pertaining to this matter.

ORDER

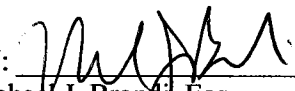
IT IS ORDERED THAT:

- a. The Respondent will henceforth strictly comply with General Statutes § 9-140; and
- b. The Respondent will pay a civil penalty of \$200.

The Respondent:


Sharon G. Macey
Wilton, CT

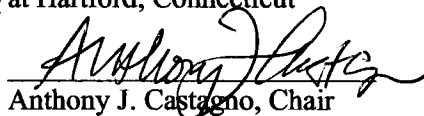
For the State of Connecticut:

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

Dated: 9-23-17

Dated: 10/12/17

Adopted this 18 day of OCT of 2017 at Hartford, Connecticut


Anthony J. Castagno, Chair
By Order of the Commission