STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Taras Rudko, Colchester File No. 2020-031

FINDINGS AND CONCLUSIONS

The Complainant alleged that Respondent Republican Registrar of Voters Sheila Tortorigi's actions and omissions impermissibly prevented him from successfully petitioning to force a primary for positions on the Colchester Republican Town Committee during the 2020 Election cycle .[1]

Law

1. General Statutes § 9-409 provides:

> Petition forms for candidacies for nomination to municipal office *or for election as members of town committees* shall be available from the registrar beginning on the day following the making of the party's endorsement of a candidate or candidates for such office or position, or beginning on the day following the final day for the making of such endorsement under the provisions of section 9-391, whichever comes first. *Any person who requests a petition form shall give his name and address and the name, address and office or position sought of each candidate for whom the petition is being obtained, and shall file a statement signed by each such candidate that he consents to be a candidate for such office or position. In the case of the municipal offices of state senator and state representative, each such candidate shall include on the statement of consent his name as he authorizes it to appear on the ballot. Upon receiving such information and statement, the registrar shall type or print on a petition form the name and address of each such*

[1] The following are the Commission's findings and conclusions based on those portions of the Complainant's statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission's jurisdiction. Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission's jurisdiction.

> *candidate, the office sought and the political party holding the primary. The registrar shall give to any person requesting such form one or more petition pages, suitable for duplication, as the registrar deems necessary.* If the person is requesting the form on behalf of an indigent candidate or a group of indigent candidates listed on the same petition, the registrar shall give the person a number of petition pages determined by the registrar as at least two times the number needed to contain the required number of signatures for a candidacy for nomination to municipal office or a number of petition pages determined by the registrar as at least five times the number needed to contain the required number of signatures for a candidacy for election as a town committee member. An original petition page filled in by the registrar may be duplicated by or on behalf of the candidate or candidates listed on the page and signatures may be obtained on such duplicates. The duplicates may be filed in the same manner and shall be subject to the same requirements as original petition pages. All information relative to primary petitions shall be a public record. (Emphasis added.)

Background and General Information

2. During the 2020 Election cycle, party endorsements for Town Committee Member could occur anywhere between January 7-14, 2020.

3. On or about January 7, 2020, the Colchester Republican Town Committee held a caucus to endorse Town Committee Members.

4. The first date for which primary petition pages were required to be made available by the Office of the Colchester Registrars of Voters was January 8, 2020.

5. The deadline for which primary petitions could be filed with the Colchester Registrars was January 29, 2020 at 4:00pm.

Allegation

6. In his Complaint, the Complainant alleged as follows, in full:

> On January 22, I issued an email to the Republican Registrar of Voters in the Town of Colchester (attached to this complaint) requesting assistance in getting a petition for a Primary after the Republican Caucus. The office door

and town's website state the hours of operation for the Republicans is Monday 8:30 am to 10:30am or "by appointment". By Thursday Jan.23 I was concerned by the lack of response, so I reached out to the Secretary of State and subsequently to the State GOP, who instructed me to visit the Office of the Registrar during the posted hours of 4:30pm to 6:30pm on Thursdays. I visited the office and was assisted by Dorothy Mrowka (Democrat Registrar) and Gayle Furman (Town Clerk). Both assisted me in getting the correct forms and Box" " completed prior to leaving as per the instructions. Not until Monday, Jan. 27, did I hear back from the Republican Registrar via email stating I did not properly complete the steps required to Petition for Town Committee Primary. At this point in time she let me know that the existing document with or without signatures was not acceptable and that a new petition would need to be issued and signatures recollected. This occurred less than 48 hours before the January 29 filing deadline. My assertion is that the Registrar knowingly and willfully colluded with the Chairman of the Republican Town Committee to uphold the results of the existing caucus and prevent the people of Colchester the legal ability to petition for a Primary to challenge the caucus results. This was accomplished by physically running down the clock on the filing deadline and invalidating the work that was done through the assistance of the Town Clerk and Democrat Registrar. Furthermore I assert that the Democrat Registrar should have had the document correctly prepared prior to leaving the office on the afternoon of January 23rd. (if in fact it was completed incorrectly to begin with). At the end of the day there needs to be access to competent staff and general responsive access to the office of the Registrar. I have provided email correspondences that support my assertions and the fact that the Republican Registrar was made aware that the paperwork was issued on Friday January 25th and choose to not inform me that it was issued incorrectly until Monday January 27th. This delay removed the capability to recollect signatures over the weekend, leaving two weekdays to regather the required signatures on the newly issued petition forms.

Investigation

7. By way of background, the investigation determined that both the Complainant and the Respondent Registrar were at all times relevant to the instant Complaint members of the Colchester Republican Town Committee.

8. The Respondent Registrar was also the Vice Chair of the January 7, 2020 caucus.

9. The investigation confirmed that the Complainant submitted no petition pages to the Respondent Registrar prior to the 4:00pm deadline on January 29, 2020 deadline for such submission and no primary was held for positions on the Colchester Republican Town Committee.

Complainant

10. Commission investigators spoke with the Complainant who stated that he took issue with the procedures followed during the January 7, 2020 caucus. He asserted that he consulted with various elected officials and party officials about his concerns surrounding the caucus, including but not limited to the state party chair. He stated that he decided on or about Wednesday, January 22, 2020, a week before the petition deadline, to collect petitions to force a primary for certain Town Committee petitions. He stated that his goal was to collect a sufficient number of signatures over the weekend.

11. The Complainant asserted that after not receiving a response to his email sent that same day, he discovered through the assistance of Republican State Central that he could ask the registrar of the other party to provide the petitions. He asserted that he came to the Office of the Registrars Thursday, January 23, 2020 and worked with Democratic Registrar of Voters Dorothy Mrowka, who also enlisted the assistance of Town Clerk Gayle Furman to get the proper petitions for him. He asserted that he asked Ms. Mrowka and Ms. Furman if he needed anything else to begin the petitioning process and that neither individual informed him that he needed anything additional in order to begin.

12. The Complainant asserted that he did not submit any completed petition pages to the Respondent Registrar for the reasons set forth in the Complaint. He also stated that he did not submit them due to his belief that "Ms. Tortorigi was complicit in maintaining the outcome of the January 7th caucus to her own benefit through suppression of our right to primary through the use of stall tactics that ran down the clock…" and that "[k]nowing at that time that she was seeking a leadership role in the RTC, divulging a list of candidates and signatures would potentially preclude those individuals from participating or accessing membership positions in the RTC in the future as slots became open during the course of the next two years."

13. The Complainant further stated that he never submitted any petition pages as he believed that the Respondent Registrar told him that they were "null and void." He stated that the Respondent Registrar explicitly told him in a telephone conversation that he would need to complete the process "in its entirety."

14. Upon request by Commission investigators, the Complainant was unable to provide originals and/or copies of the petition pages that he asserted that he gathered between Thursday, January 23, 2020 and Monday January 27, 2020, nor did he provide any estimate as to how many signatures he may have collected and/or how many were remaining as of Monday January 27, 2020.

Respondent Reply

15. The Respondent asserted that the events alleged by the Complainant did not occur in the manner in which he described and she vehemently denied she ever told him that he would need to recirculate his petitions, but rather all she was trying to do was to get him to submit the candidate consent statements required by General Statutes § 9-409, which should have been collected prior to the petitions even being issued.

16. She asserted that as a part-time registrar, her office hours were indeed on Mondays only, with her Democratic counterpart working on Thursdays. However, she asserted that posted on the door to the Registrars' offices were not only the days and times of her office hours, but her personal email and phone number in order for customers to contact her outside of office hours.

17. She further asserted that she and the Complainant were both members of the Colchester Republican Town Committee and were familiar with each other

18. She asserted that she and the Complainant had each other's personal contact information and provided proof of such in the form of text messages shared between them the October before the pertinent events of this case.

19. The Respondent Registrar confirmed that she did not receive the Complainant's email sent on Wednesday January 22, 2020 as she was not in the office and was not provided access to her work email from home.

20. The Respondent Registrar asserted that after Ms. Mwroka and Ms. Furman assisted the Complainant on Thursday January 23, 2020 with his petitions, Ms. Furman called her to let her know it had occurred.

21. She asserted that the next day, Friday January 24, 2020 she came down to the office and spoke with both individuals to make sure that they had followed the correct procedures. It was at this point that she discovered that the Complainant had not provided the required candidate consent statements.

22. The Respondent Registrar asserted that on that Friday she called the Complainant on his personal cell phone and left a voicemail that he needed to call her about the candidate consent statements. She stated that he did not call her back. She stated that "[a]ll he had to do was supply the consent forms. He thought I would reject the signatures, but I never said that. I said I needed to correct the paperwork. He needed to call me back and I could help him."

23. The Respondent Registrar stated that he did not call her back over the weekend so she emailed him again on Monday. She provided a 3-email exchange between them (a portion of which was provided with the Complaint). The emails provided the following:

RESPONDENT REGISTRAR (Monday, January 27, 2020 8:52 am)

> *Taras, I've been made aware that you have not properly completed steps to Petition for Town Committee Primary. It's my obligation to offer guidance as this email demonstrates. Please feel free to contact me.*
> *Sheila Tortorigi*

COMPLAINANT (Monday, January 27, 2020 at 6:27pm)

> *Good Afternoon.*
> *I find it disingenuous that you have a new found interest in your obligations and duties as a Registrar. My email to you and the Registrar's office was filed last Wednesday. The town's website clearly lays out your hours of operation (8:30 a.m. to 10:30 a.m.) and then states or "by appointment". I had requested such an appointment on Wednesday January 22nd.*
> *It took you FIVE days to respond to my initial request, therefore, it's apparent you have personally chosen to not respond in a timely fashion in order to remove the right of the town's people to petition for a Primary to which you and Mr. Healy (Chairman of the Republican Town Committee) are opposed. I find it offensive that you are" offering" your help as the January 29th deadline is merely 48 hours away. In your absence, I reached out to both the Secretary of the State's office and the CT GOP to which both parties directed me to the Town Registrar's office for petition forms. Dorothy Mrowka (Democrat Registrar)and Gayle Furman (Town Clerk) assisted me in getting the correct forms and box "A" completed prior to leaving the office as per the instructions.*
> *I am including the Office of the Secretary of State on this correspondence as an official complaint and assert that your office is willfully attempting to prevent voters from partaking in the democratic process. Furthermore, I am asserting that you are*

acting on behalf of the Chairman of the Republican Town Committee, who is attempting to cover for a potentially illegal caucus.
So, prior to taking any further action, are you telling me that you are invalidating the existing petition along with any potential signatures, just to be clear?
Respectfully,
Taras W. Rudko

RESPONDENT REGISTRAR (Monday, January 27, 2020 at 8:03pm)

Taras,
My office hours are Monday from 8:30-10:30. I did not receive your email until the end of that week, since I didn't go into the office. Once I was aware that you had pulled the Petition with Dot, I had to trade her down and ask exactly how she had done it. I made numerous phone calls asking for steps and details on how to implement the rules and accepted procedures. As you may know the Secretary of State was moving their offices last week and very hard to get in touch with. The fact is that I had office hours today and wanted to let you know of what I had learned. You have my personal number and email which this proves but you never reached out to me to let me know about the email you had left at the Registrar office. I am doing my job and resent the fact that you would accuse me of anything else.
Sheila

24. The Complainant included the last two emails in the exchange that occurred in the evening of the 27th, but did not include the initial email from the Respondent Registrar sent at 8:27am.

25. The Respondent Registrar also provided evidence of a text message sent to the Complainant at 3:19 PM on Monday, January 27, 2020 in between the first and the second emails above which read "Please call me, [there] is an issue with the petitions—as of right now I will not be able to accept them"

26. The Respondent Registrar asserted that this was the total communication between them to the best of her knowledge. She stated that she did not recall a telephone conversation with the Complainant, but if there had been one, she would not have told him that he would need to re-collect the petition pages, only that she needed the candidate consent statements before she could accept them.

Corroboration by Mrowka and Furman

27. Ms. Mrowka and Ms. Furman confirmed that they were in the office on Thursday, January 23, 2020 and provided the Complainant with the petition pages that he requested. They confirmed that they failed to request the candidate consent statements before issuing the petition pages.

28. Ms. Mrowka and Ms. Furman also confirmed that the Respondent Registrar did come into the office on Friday, January 24, 2020 to review the paperwork submitted by the Complainant.

29. Ms. Mrowka and Ms. Furman were unable to substantiate any other facts asserted by the Complainant or the Respondent Registrar.

Analysis

30. As an initial matter, the Commission notes that Ms. Mrowka and Ms. Furman erred in failing to collect the candidate consent statements from the Complainant before issuing the petition pages. While this error became the origin point of the disagreement between the Complainant and the Respondent Registrar at issue in this case, such error inured to the Complainant's benefit insofar as if Ms. Mrowka and Ms. Furman were correctly following the requirements of General Statutes § 9-409, the Complainant would not have gotten petition pages on that Friday until he could return with the signatures. Ultimately, their mistake allowed the Complainant to maximize his time collecting signatures.

31. Moreover, the gravamen of the Complainant's affidavit of Complaint does not concern Ms. Mrowka and Ms. Furman, but focuses squarely on the Respondent Registrar. For the reasons set forth above, the Commission will take no further action concerning this error.

32. Additionally, the Commission notes that while the Respondent Registrar should have taken steps to be more readily available either in person or through email during the petitioning period (such as gaining access to her work email and/or posting a more accessible email to the Town's website rather than just to her office door), this was not fatal to the Complainant's potential candidacy, as the Respondent Registrar's Democratic counterpart could, and did, perform the function for the office.

33. Turning to the main question here raised by the Complainant's allegations, the Commission notes that the Commission has held that a failure of a registrar to inform a petitioner correctly as to the law concerning petitions is not in and of itself a violation of any statute.

In the Matter of a Complaint by Jason Bartlett, Bridgeport, File No. 2011-107 (petitioning candidates relied to their detriment on the registrar's failure to inform them that their petition was not compliant—no statutory violation found, but Superior Court issued equitable relief due to the candidates' reasonable reliance). *See Also, In the Matter of a Complaint by Ernestine Holloway, Meriden*, File No. 2019-106 (registrar mistakenly believed out-of-town circulators could not be used).

34. However, any actions taken by a registrar pursuant to this mistaken belief that do not comply with any statute concerning petitions would be a violation.

35. In *Holloway*, the issue was not that she misunderstood the law regarding out-of-town circulators and misinformed the petitioning candidate as such, it is that she failed to give the out-of-town circulator petitions upon request, which amounted to a violation of General Statutes § 9-409.

36. Here, the potential violation concerns whether the Respondent Registrar actually or effectively refused to accept validly collected petitions by the Complainant.[2]

37. The pertinent corroborated facts in this matter are that the Complainant received petition pages approximately 6 days prior to the petition deadline from the Office of the Registrar of Voters. Such petition pages were given to the Complainant by the Democratic Registrar without first collecting the candidate consent statement, as required by General Statutes § 9-409. What happened subsequently is a matter of factual dispute between the Complainant and the Respondent Registrar.

38. If the Complainant's statements are to be believed, the Respondent Registrar explicitly told the Complainant that any petitions collected over the weekend were "null and void" and that he would need to start again since he did not submit the candidate consent statements at the time such petition pages were given to him.

39. If the Respondent's statements are to be believed, she never told the Complainant that he would need to throw away his already-collected petition pages, merely that he needed to collect the candidate consent statements and deliver them to her before she could accept any completed petitions.

40. The only reliable record of the dialogue between the two exists in the emails and text message included above, all of which were exchanged on Monday, January 27, 2020.

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[2] Either registrar could have provided these pages. The fact that the Democratic Registrar took on this duty was not in and of itself a violation.

41. Turning to this email exchange, there does not appear to be a clear statement by the Respondent Registrar to this effect. In her initial email just before 9am, the Respondent Registrar suggests that there may be issues with the Complainant's petitions and requests that he contact her. The Respondent Registrar again attempts to reach the Complainant, this time via text message, stating "Please call me, [there] is an issue with the petitions—as of right now I will not be able to accept them." The Complainant responds over 8 hours after the original email at 6:27pm with an email of substantial length accusing the Respondent Registrar of a number of misdeeds, including but not limited to a coordinated party effort to derail his efforts on the local Republican Town Committee. He explicitly asks at the end of this email if the Respondent Registrar is refusing to accept any petition signatures gathered to date. The final communication, from the Respondent Registrar, does not respond, explicitly, to the accusations, nor does it specifically answer his request at end.

42. There was no evidence found during this investigation of any further relevant communications before, during, or after the aforesaid.

43. Considering the recorded communications, the Commission accepts that it is possible that the Complainant could have misconstrued the statement in the text message as an effective rejection of any primary petitions collected, but this was not a communication included in either this Complaint or in any subsequent requests from Commission investigators.

44. Moreover, the dialogue continued subsequently, and the Complainant put the question to the Respondent directly.

45. And even if the Commission were to read her final response in the light most favorable to the Complainant, she does not answer the Complainant's question in the affirmative such that the Commission could state that it was more likely than not that she effectively refused to accept any petition pages.

46. Considering the aforesaid, the Commission finds that there is insufficient evidence available to establish that the Respondent Registrar received any petitions, rejected any received petitions, or preemptively rejected any petitions that the Complainant may have already collected.

47. Accordingly, the matter against the Respondent Registrar should be dismissed.

ORDER

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

Concerning Ms. Mrowka and Ms. Furman: *No Further Action*
Concerning Respondent Tortorigi: *Dismissed.*

Adopted this 5th day of May, 2021 at Hartford, Connecticut.

Stephen T. Penny, Chairperson
By Order of the Commission

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