STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Peter Beckwith, et al., Manchester — File No. 2020-047

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Manchester Town Clerk Joseph Camposeo (hereinafter "Respondent") 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:

Parties

1. At all times relevant hereto, Complainant Peter Beckwith was an elector in the Town of Manchester enrolled in the Democratic Party.

2. At all times relevant hereto, Complainant Emily Beckwith was an elector in the Town of Manchester enrolled in the Democratic Party.

3. At all times relevant hereto Respondent Joseph Camposeo was the Town Clerk for the Town of Manchester.

Allegation

4. Complainants alleged that the Respondent Town Clerk failed to properly administer the distribution of absentee ballots concerning the August 11, 2020 Democratic Primary and that such failure resulted in Complainant Emily Beckwith's disenfranchisement.

Relevant Facts and Assertions

The August 11, 2020 Primary

5. In the State of Connecticut, a presidential preference primary is a primary "in which any enrolled member of a party is eligible to vote for a candidate for such party's nomination for President [of the United States]." General Statutes § 9-463 (8).

6. By statute, Connecticut's presidential preference primary is held "on the last Tuesday in April of each year in which the President of the United States is to be elected[.]" General Statutes § 9-464.

7. On or about March 10, 2020, by letter to the Secretary of the State and Clerks of the General Assembly, the Governor declared "a public health and civil preparedness

emergency throughout the State, pursuant to Sections 19a-131a and 28-9 of the Connecticut General Statutes." The stated reason for such declaration was "[i]n response to the global pandemic of COVID 19 disease that is currently affecting multiple countries and states and has resulted in the spread of infections in Connecticut and surrounding states, as well as shortages of personal protective equipment and other supplies that could jeopardize public safety and civil preparedness[.]" Letter from Ned Lamont, Governor, State of Connecticut to Denise Merrill, Secretary of the State, et al, (Mar. 10, 2020), https://portal.ct.gov/-/media/Office-of-the-Governor/News/20200310-declaration-of-civil-preparedness-and-public-health-emergency.pdf.

8. On or about March 19, 2020, the Governor issued an executive order postponing the presidential preference primary to June 2, 2020. Conn. Exec. Order No. 7G, Mar. 19, 2020, https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7G.pdf.

9. On or about April 17, 2020, the Governor issued an executive order further postponing the presidential preference primary to August 11, 2020, the date upon which other primaries were already scheduled to take place. Conn. Exec. Order No. 7BB, Apr. 17, 2020, https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7BB.pdf.

10. On or about May 20, 2020, the Governor issued an executive order modifying the rules and procedures by which absentee ballots were to be issued and counted. Conn. Exec. Order No. 7QQ, May 20, 2020, https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7QQ.pdf. Among the modifications made by Executive Order No. 7QQ were: that any eligible voter could request an absentee ballot "because of the sickness of COVID-19"; that a third party mail vendor was permitted to fulfill the municipal clerk's duties to mail absentee ballot sets; and that absentee ballot sets could be returned by being placed in a "secure drop box". *Id.*

11. The week prior to the August 11, 2020 presidential preference primary there was public reporting that a large number of absentee ballots requested by the voters of the State had not been received. Christopher Keating, A week before Connecticut's primary, more than 20,000 voters who requested absentee ballots haven't yet received them due to state's mix-up, The Hartford Courant, Aug. 4, 2020, https://www.courant.com/politics/hc-pol-town-clerks-absentee-problems-20200804-2fczmxkdb5dkhbttfiloagnuzy-story.html.

12. On or about August 10, 2020, the Governor issued an executive order that further modified the rules governing absentee ballots, including that Absentee Ballot that had been postmarked by August 11, 2020 and received by August 13, 2020 were to be accepted and counted by the town clerks. Conn. Exec. Order No. 7MMM, Aug. 10, 2020, https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7MMM.pdf.

13. On or about August 11, 2020, the presidential preference primary for the State of Connecticut was conducted.

14. With regard to the August 11, 2020 presidential preference primary, the Manchester Town Clerk issued 5,625 absentee ballots and 4,258 of those ballots were returned. By comparison, with regard to the 2016 presidential preference primary, the Manchester Town Clerk issued 247 absentee ballots and 207 of those ballots were returned.

15. During the period of March of 2020 until after August 13, 2020, the use of the Manchester Town Hall was limited by order of the Town of Manchester. Press Release, Town of Manchester, All Town of Manchester buildings, administrative offices and facilities will be closed indefinitely to the public as of 8:00 on March 19, 2020. The offices will be staffed and services will be provided to the public by telephone, email, and by appointment. (Mar. 19, 2020) (on file with the Commission). The complaint in this matter was self-reported by Respondent.

Peter and Emily Beckwith's Absentee Ballot Mailing Issues

16. On or about June 24, 2020, Respondent's office received an absentee ballot application for Emily Beckwith concerning the August 11, 2020 Democratic primary ("Emily Beckwith Application One").

17. Emily Beckwith Application One indicated that the absentee ballot should be sent to an address in Chatham, Massachusetts.

18. Sometime after June 24, 2020, Respondent's office received a second absentee ballot application for Emily Beckwith concerning the August 11, 2020 Democratic primary ("Emily Beckwith Application Two").

19. Emily Beckwith Application Two was on the modified application form mailed to all enrolled party members by a mail house contracted by the Secretary of the State prior to the August 11, 2020 presidential preference primary.

20. The form for Emily Beckwith Application Two did not contain a section to indicate where the absentee ballot should be sent.

21. On or about June 24, 2020, Respondent's office received an absentee ballot application for Peter Beckwith concerning the August 11, 2020 Democratic primary ("Peter Beckwith Application One").

22. Peter Beckwith Application One indicated that the absentee ballot should be sent to an address in Chatham, Massachusetts.

23. Sometime after June 24, 2020, Respondent's office received a second absentee ballot application for Peter Beckwith concerning the August 11, 2020 Democratic primary ("Peter Beckwith Application Two").

24. Peter Beckwith Application Two was on the modified application form mailed to all enrolled party members by a mail house contracted by the Secretary of the State prior to the August 11, 2020 presidential preference primary.

25. The form for Peter Beckwith Application Two did not contain a section to indicate where the absentee ballot should be sent.

26. Respondent states that the process in place on and around July 21, 2020 to process absentee ballot applications was that his office, upon receipt of an absentee ballot application, would enter the data for that application into the Connecticut Voter Registration System ("CVRS"). That information was then provided to a third-party mail house that would send absentee ballot sets[1] to voters based upon the information uploaded into CVRS.

27. An absentee ballot report concerning the August 11, 2020 Democratic primary in the Town of Manchester – generated on or about August 3, 2020 and provided to this office by Respondent (the "August 3, 2020 Absentee Ballot Report") – indicates that absentee ballot sets were sent to Complainants at their home address in Manchester on or about July 21, 2020.

28. According to both Complainants and Respondents, sometime between on or about July 31, 2020 and on or about August 7, 2020, Complainant Peter Beckwith called Respondent Town Clerk's office from their location in Massachusetts to state that neither he nor his wife had received absentee ballot sets.

29. Respondent claims that, on or about August 7, 2020, the Town Clerk's office sent absentee ballot sets to both Complainants Emily and Peter Beckwith at the Massachusetts address listed on Complainants original absentee ballot applications.

30. Respondent states that his office and not the mail house identified by the Secretary of the State sent the second absentee ballot sets to the Complainants because the mail house had fallen behind in issuing absentee ballots and the responsibilities for issuing absentee ballots at that time had reverted to the local town clerks.

31. An absentee ballot report concerning the August 11, 2020 Democratic primary in the Town of Manchester, generated on or about July 19, 2021 and provided to this office by Respondent (the "July 19, 2021 Absentee Ballot Report") indicates that a new absentee ballot set for Complainant Peter Beckwith was issued to the correct Massachusetts address on August 7, 2020 and was received back and counted on August 12, 2020.

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[1] " An absentee voting set shall consist of an absentee ballot, inner and outer envelopes for its return, instructions for its use, and if applicable, explanatory texts concerning ballot questions, as provided for in sections 2-30a and 9-369b. No other material shall be included with an absentee voting set issued to an applicant except as provided in sections 9-153e and 9-153f or where necessary to correct an error or omission as provided in section 9-153c." General Statutes § 9-140 (d).

32. The July 19, 2021 Absentee Ballot Report further states that the original absentee ballot set issued on July 21, 2020 to Complainant Emily Beckwith was issued to the Massachusetts address.

33. Complainants state that shortly before August 11, 2020, they both received their absentee ballots for the August 11, 2020 primary. Complainants state that they voted their own ballots that day and placed them in the mail.

34. The absentee ballot for Complainant Peter Beckwith concerning the August 11, 2020 Democratic primary was received on or about August 12, 2020 by the Respondent Town Clerk's office and was counted.

35. There was no evidence discovered that an absentee ballot for Complainant Emily Beckwith concerning the August 11, 2020 Democratic primary was ever received by Respondent's office.

Emily Beckwith's Absentee Ballot Recording Issue

36. With regard to every absentee ballot that was issued concerning the August 11, 2020 Democratic primary in Manchester, Respondent's staff would record the absentee ballot outer envelope serial number (commonly referred to as the "K Number") in a database from which the aforementioned Absentee Ballot Reports could be generated.

37. The August 3, 2020 Absentee Ballot Report indicates that the K Number for the absentee ballot that was issued to Complainant Emily Beckwith on August July 21, 2020 was K041491

38. After reviewing their records for this matter, Respondent acknowledges that the K Number for the absentee ballot set that was issued to Complainant Emily Beckwith on July 21, 2020 was, in fact, K041493 and that the error on the August 3, 2020 Absentee Ballot Report was due to a data entry error on the part of Respondent's office.

39. The July 19, 2021 Absentee Ballot Report contained the same incorrect K Number for Complainant Emily Beckwith's absentee ballot set as the August 3, 2020 Absentee Ballot Report.

Law

40. General Statutes § 9-140 (e) provides:

> Upon receipt of an application, the municipal clerk shall, unless a notice is mailed to the applicant pursuant to subsection (c) of this section, write the serial number of the outer envelope included in the absentee voting set to be issued to the applicant in the

> space provided for that purpose on the application form. Sets shall be issued to applicants in consecutive ascending numerical order of the envelope serial numbers, and the clerk shall keep a list of the numbers indicating beside each number the name of the applicant to whom that set was issued. The list shall be preserved as a public record as required by section 9-150b.

41. General Statutes § 9-140 (g) (1) further provides:

> On the first day of issuance of absentee voting sets the municipal clerk shall mail an absentee voting set to each applicant whose application was received by the clerk prior to that day. When the clerk receives an application during the time period in which absentee voting sets are to be issued he shall mail an absentee voting set to the applicant, within twenty-four hours, unless the applicant submits his application in person at the office of the clerk and asks to be given his absentee voting set immediately, in which case the clerk shall comply with the request. Any absentee voting set to be mailed to an applicant shall be mailed to the bona fide personal mailing address shown on the application. Issuance of absentee voting sets shall also be subject to the provisions of subsection (c) of this section, section 9-150c and section 9-159q concerning persons designated to deliver or return ballots in cases involving unforeseen illness or disability and supervised voting at certain health care institutions.

Discussion

Liability

42. There are two issues to address concerning Respondent's conduct in this case. First, Complainants alleged that Respondent's conduct resulted in absentee ballots being sent to the wrong address and then, later in Complainant Emily Beckwith's disenfranchisement. Second, the Commission must address the failure of Respondent to properly document Complainant Emily Beckwith's absentee ballot serial number in an internal list as required by General Statutes § 9-140 (e).

43. With regard to the first absentee ballot sets issued to Complainants, it is clear that they were not sent to the proper Massachusetts address. Rather, if such documents were sent by the mail house at all, they were sent to the Complainant's Manchester address. However, while Complainants did submit absentee ballot applications that indicated the absentee ballots should be sent to Massachusetts, they subsequently submitted absentee ballot applications that did not contain a separate mailing address. The second absentee ballot applications contained no separate mailing address because the form that had been submitted to each eligible voter in the state did not contain a section for such address. Thus, while, taken as a whole, it appears clear that Complainants wished to have their absentee ballots sent to Massachusetts there was sufficient ambiguity created by the improperly drafted forms such that the Commission declines to find violation of General Statutes § 9-140 (g) (1) for failure to send the absentee ballot sets to the correct address.

44. With regard to the alleged disenfranchisement of Complainant Emily Beckwith, by Complainants' own admission, Complainants Peter Beckwith and Emily Beckwith both received absentee ballots at their Massachusetts address on the same day. They claim that they both filled out such ballots the day they received them and immediately placed them in the mail. Complainant Peter Beckwith's absentee ballot was received in time to be counted, but Complainant Emily Beckwith's absentee ballot was never received. While it is always concerning when a voter claims that a vote they cast was not counted, despite diligent investigation, it is not clear why Ms. Beckwith's absentee ballot was not received by the Respondent. Without any evidence to suggest a causal relationship between the failures listed above by the Respondent and Complainant Beckwith's absentee ballot not having been counted, the Commission can assign no liability for such conduct.

45. Finally this investigation revealed that the Respondent Town Clerk failed to properly document Complainant Emily Beckwith's absentee ballot serial number in an internal list as required by General Statutes § 9-140 (e). In fact, Respondent admits that the serial number documented for Respondent Emily Beckwith was not accurate. Accordingly, the Commission determines that, by failing to "keep a list of the [outer envelope serial] numbers indicating beside each number the name of the applicant to whom that set was issued" Respondent violated General Statutes § 9-140 (e).

Penalty

46. The provisions of General Statutes § 9-140 are an area to which the Commission has dedicated a substantial amount of resources and attention. See *In the Matter of a Complaint by Raquel Calderon, Hartford*, File No. 2018-064 (An investigation into whether absentee ballot applications were properly distributed in locations subject to supervised absentee balloting); *In the Matter of a Complaint by Helen O. Losak, Bridgeport*, File No. 2016-063 ($6,000 civil penalty assessed against an individual that intestinally took possession of others absentee ballots); *In the Matter of a Complaint by Keith R. Ricci, Hartford,* File No. 2016-041 ($200 civil penalty against a town clerk that failed to properly administer the permanent absentee ballot list); *In the Matter of a Complaint by Britta Lerner, et al, Weston,* File No. 2015-136A and 2015-136B (An investigation concerning whether unsolicited absentee ballot applications sent to voters by members of a local town committee included proper warning documentation).

47. Moreover, the Commission has previously declared that "[v]iolations by elections officials resulting in the disenfranchisement of an elector, even if unintentional, is a matter that the Commission takes very seriously." See *In the Matter of a Complaint by Keith R. Ricci, Hartford*, File No. 2016-041 at 4-5, citing *In the Matter of a Complaint by Kaitlyn L. Fydenkevez, West Hartford,* File No. 2016-024B and *In the Matter of a Complaint by Bernandus Van Gool, Old Lyme,* File No. 2014-183.

48. In this case, while there is an allegation that a failure of the Respondent Town Clerk resulted in the disenfranchisement of a voter, such allegation is not supported by the evidence. Rather, the only violation that could be definitively proven in this case was that the list containing the serial numbers of the absentee ballot outer envelopes was not accurately maintained. Such violation, while complicating the investigation, did not appear to have any other negative effect on the right to vote of any elector.

49. Moreover, a review of Commission records show that the Respondent has no prior history of similar acts or omissions.

50. Furthermore, the evidence collected in this case suggests that Respondent made every effort to execute the duties of his office in an effective and efficient way. While errors were discovered in the course of this investigation, such errors did not appear to be systematic, and Respondent appeared to be acting in good faith at all times. Respondent also actively cooperated and assisted with this investigation, providing Commission staff with both access to all requested documents in a timely manner and made himself and staff available for questioning.

51. Finally, the violation in this case was made in the context of a global pandemic. Such pandemic created three acute obstacles for town clerks across the state. First, the pandemic forced towns to close or limit occupancy of public buildings. This limitation forced town clerks to administer the physical paper of absentee ballots while limiting physical presence in town hall. Second, the pandemic caused the Governor to issue four executive orders prior to August 11, 2020 that directly impacted the conduct of the August 11, 2020 primary. The changes in absentee balloting directed by the Governor were some of the most significant changes to the conduct of elections in a generation and the burden to adapt to the continually changing situation between March and August of 2020 fell squarely on the shoulders of local town clerks. Finally, the town clerks were, often without substantially increased resources, required to administer an exponential increase in absentee ballot usage in the August 11, 2020 primary. Given these compounding forces, that more complaints concerning this primary were not filed with the Commission is the most surprising result.

52. Accordingly, in consideration of foregoing, the Commission declines to assess a civil penalty for the violation in this case.

Terms of General Application

53. 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.

54. Respondent shall receive a copy hereof as provided in section 9-7b-56 of the Regulations of

Connecticut State Agencies.

55. 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 Respondent and may not be used by either party as an admission in any subsequent hearing, if the same becomes necessary.

56. Respondent waives:

    a. any further procedural steps;

    b. the requirement that the Commission's decision contain a 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.

57. Upon Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent.

ORDER

IT IS HEREBY ORDERED THAT Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-140.

The Respondent:

By:

Joseph Camposeo

Joseph Camposeo

Manchester Town Clerk
41 Center Street
Manchester, CT 06045

Dated: September 17, 2021

For the State of Connecticut:

By:

Michael J. Brandi, Esq.,
Executive Director and General
Authorized Representative of the State
Elections Enforcement Commission
55 Farmington Ave., 8th Floor
Hartford, CT 06105

Dated: 9/24/2021

Adopted this 6th day of October, 2021 at Hartford, Connecticut

Stephen T. Penny
By Order of the Commission