

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Edward Avila, Canterbury

File No. 2007-161

AGREEMENT CONTAINING CONSENT ORDER
AND PAYMENT OF CIVIL PENALTY FOR VIOLATIONS OF
CONNECTICUT GENERAL STATUTES § 7-9

This agreement by and between Christopher Pitts of the Town of Canterbury, County of Windham, State of Connecticut, hereinafter referred to as the Respondent, and the undersigned 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. The Respondent circulated a petition (the "Petition") on or about February 12, 2007, requesting that the following proposal entitled "Repeal of Ordinance, referencing, An Ordinance creating a combined position of Town Planner/Zoning Officer/Inland Wetlands and Water Courses Enforcement Officer" be brought to referendum.
2. The complainant challenged the authenticity of two signatures on the Petition; those of Heather and Robert DeLuca.
3. The Petition contained the following statement (the "Statement") which was followed by the Respondent's signature: **"Each person whose name appears on this petition page signed the same in person in my presence and is known to me or has been satisfactorily identified to me.** None of the signatures on this page were obtained earlier than six months prior to the date the page is filed. I HEREBY STATE UNDER THE PENALTIES OF FALSE STATEMENT THAT THE FOREGOING STATEMENTS ARE TRUE." (Emphasis added.)
4. Connecticut General Statutes § 7-9, explicitly provides the following in pertinent part:

Whenever under the provisions of the general statutes or any special act, any action for a vote by the electors or voters of a municipality is to be initiated by the petition of such electors or voters, in addition to such other requirements as such statute or special act may impose, such petition shall be on a form prescribed or approved by the clerk of such municipality, and **each page of such petition shall contain a statement**, signed under penalties of false statement, **by the person who circulated the same, setting forth such circulator's name and address, and stating that each person whose name appears on said page signed the same in person in the presence of such circulator, that the circulator either knows each such signer or that the signer satisfactorily identified himself to the circulator** and that all the signatures on said page were obtained not earlier than six months prior to the

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filing of said petition. Any page of a petition which does not contain such a statement by the circulator shall be invalid. . . . [Emphasis added.]

5. An implicit requirement of section 7-9 is that the circulator's statement must be true. Accordingly, if the circulator signed a section 7-9 petition statement that he or she knew or should have known was untrue, that circulator will be deemed to have violated section 7-9.
6. With respect to the signature of Heather DeLuca, it is found that she satisfactorily identified herself to the Respondent and signed her own name to the Petition in the Respondent's presence.
7. It is therefore concluded that with respect to Heather DeLuca's signature the Respondent did not violate General Statutes § 7-9.
8. With respect to the signature Robert DeLuca, it is found that he did not identify himself to the Respondent and did not sign his own name to the Petition in the Respondent's presence. Instead, he gave his wife, Heather DeLuca permission to sign on his behalf which she did.
9. Respondent acknowledges that Heather DeLuca signed the petition on her husband's behalf. The Respondent maintains, however, that at the time he signed the Statement, he did not realize that Mrs. DeLuca had signed the Petition on her husband's behalf.
10. The Respondent further maintains that he did not intentionally allow the error and, upon realizing that Mrs. DeLuca had signed the Petition on her husband's behalf he contacted the Secretary of the State's office to see if Mrs. DeLuca's actions were permissible, and if not, how to remedy the error. The Commission finds that in making the Statement, the Respondent did not intend to defraud anyone and did attempt to remedy the inaccuracy.
11. Nevertheless, because Robert DeLuca did not sign the petition himself and did not identify himself to the Respondent, the Respondent knew or should have known that his signed Statement that "**[e]ach person whose name appears on this petition page signed the same in person in my presence and is known to me or has been satisfactorily identified to me**" was not accurate.
12. As such, his Statement constitutes a violation of General Statutes § 7-9.
13. Connecticut General Statutes § 9-7b provides that the State Elections Enforcement Commission shall have the power to levy a civil penalty of up to two thousand dollars per offense against any person the commission finds to be in violation of Connecticut General Statutes § 7-9. In setting the amount of the civil penalty at \$200, the Commission has considered that the Respondent has no prior history before the Commission, had no intention to defraud, self-reported to the Town Clerk upon discovering the error in the petition, and made a good faith effort to mitigate any adverse consequences.
14. 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 into after a full hearing and shall become final when adopted by the Commission.
15. The Respondent waives:

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with Connecticut General Statutes § 7-9 and shall pay a civil penalty of two hundred dollars (\$200.00) to Commission on or before May 9, 2007.

For the State of Connecticut

Dated: 5/8/07

BY:

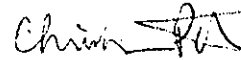


Joan M. Andrews, Esq.
Director of Legal Affairs
and Enforcement
Authorized Representative
of the State Elections
Enforcement Commission
20 Trinity Street
Hartford, Connecticut

The Respondent

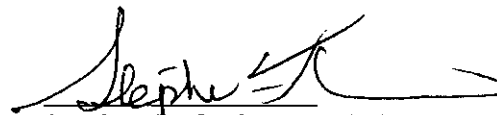
Dated: May 05, 2007

BY:



Christopher Pitts
11 North Canterbury Road
Canterbury, Connecticut 06331

Adopted this 9th day of May 2007 at Hartford, CT by vote of the Commission.



Stephen F. Cashman, Chairman
By Order of the Commission