

STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

AUG 15 2007

In the Matter of a Complaint by  
Jared Swain, Pawcatuck

File No. 2007-184

**ENFORCEMENT  
COMMISSION**

AGREEMENT CONTAINING CONSENT ORDER

This agreement, by and between June Valenti of the Town of Stonington, County of New London, State of Connecticut (hereinafter referred to as the Respondents) 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 Connecticut General Statutes § 4-177 (c). In accordance herewith, the parties agree that:

1. Complainant was a candidate for Judge of Probate for the Town of Stonington at the November 7, 2006 election.
2. Respondent is certified as a moderator by the Office of the Secretary of the State and for the November 7, 2006 state election served as Moderator of the 1<sup>st</sup> District polling place at Stonington Town Hall.
3. Complainant alleged that Respondent had closed one machine at 7:20 p.m. and another by 7:45 p.m., at the 1<sup>st</sup> District polling place prior to the close of polls at 8:00 p.m. and failed to announce the absentee ballot tally after the close of the polls. Complainant alleged that his wife was a witness to these events.
4. Complainant made various allegations of violations by election moderators pertaining to the removal of Complainant's campaign signs. However, the signs in question were outside of the 75 foot mark and outside the Commission's jurisdiction, pursuant to Connecticut General Statutes § 9-236. The Town of Stonington reportedly has a policy disallowing campaign signs on town property, and uniformly administered the policy at the polling places throughout the town during the course of the day.
5. Numerous additional allegations made by the Complainant were against other agencies or entities and not within the Commission's jurisdiction and therefore were not investigated in connection with this matter.
6. Connecticut General Statutes § 9-309, provides in pertinent part:  
*As soon as the polls are closed, the moderator, in the presence of the other election officials, shall immediately lock the voting machine against voting and immediately open the counting compartments, giving a full view of all the counter numbers to all the election officials present. The moderator shall, in the order of the offices as their titles are arranged on the machine,*

read and announce in distinct tones the result as shown by the counter numbers, giving the number indicated by each counter and indicating the candidate to whom such counter belongs, and shall read the votes recorded for each office on the voting machine ballot label. He shall also, in the same manner, announce the vote on each constitutional amendment, proposition or other question voted on. The vote so announced by the moderator shall be taken down by each checker and recorded on the tally sheets. Each checker shall record the number of votes received for each candidate on the voting machine ballot label and also the number received by each person for whom write-in ballots were cast. *The counter compartment of the voting machine shall remain open until the statement of canvass and all other reports have been fully completed and signed by the moderator, checkers and registrars, or assistant registrars, as the case may be.* The result of the votes cast shall be publicly announced by the moderator, who shall read the name of each candidate, with the designating number and letter of his counter and the machine vote registered on such counter and the absentee vote as furnished the moderator by the absentee ballot counters; also the vote cast for and against each question submitted. While such announcement is being made, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine and any necessary corrections shall then and there be made by the moderator, checkers and registrars or assistant registrars, *after which the doors of the voting machine shall be closed and locked. In canvassing, recording and announcing the result, the election officials shall be guided by any instructions furnished by the Secretary of the State.* If the machine is equipped with a device for printing totals of candidate and question counters, and the device has been made operational at the instruction of both registrars of voters, the doors concealing the counters shall not be opened. The printed record produced by the machine shall be the official return, and the results of the votes as shown thereon shall be proclaimed in the same manner as herein provided and ample opportunity shall be given to any person lawfully present to inspect such printed records. If the moderator finds that the printed record is not clear, the doors concealing the counters shall be opened and counting shall proceed as with a machine which does not have such a device. [Emphasis added.]

7. The investigation revealed and the Respondent admits that she closed *one* machine prior to the close of polls at 8:00 p.m. at the 1<sup>st</sup> District polling place by closing its

front doors. Respondent maintains that she did not seal it nor take the paperwork out of the back of that machine.

8. The *Moderator's Handbook* published by the Secretary of the State, advised that the canvass must begin immediately after the close of the polls, and the provision that it occur in full view of all polling place officials and the public, and that it not be stopped *for any reason*.
9. Moreover, only *after the last person in line has voted* must the machines be locked and sealed. (See C.G.S. §9-308, §9-309, §9-440.) By "closing" a machine prior to the close of polls the moderator had to stop the immediate canvass after the close of polls to open the machine's front doors to include it in the canvass.
10. Therefore, by closing a machine prior to the close of polls, Respondent as 1<sup>st</sup> District polling place moderator failed to comply with Connecticut General Statutes § 9-309 pertaining the canvass following the close of the polls.
11. The Respondent was merely attempting to be efficient in closing the machine early, but it is inconsistent with § 9-174 and § 9-309, General Statutes and the advice of the Secretary of the State, to close a machine prior to the closing of the polls at 8:00 p.m.
12. With respect to the allegation concerning failure to announce the absentee ballot count at the 1<sup>st</sup> District polling place, the Town of Stonington utilized central absentee ballot counting pursuant to § 9-147a, General Statutes, and absentee ballot results were determined and announced at another location. Accordingly, no violation of law occurred in respect to this allegation.
13. The Commission notes that Respondent was otherwise meticulous in her conduct at the polls on November 6, 2007 election and diligently kept a detailed diary of that days events.
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 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.
15. 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 as an admission in any subsequent hearing, if the same becomes necessary.

16. The Respondent waives:

- (a) Any further procedural steps;
- (b) The requirement that the Commission's decision contains 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.

17. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her pertaining to this matter.

**ORDER**

IT IS HEREBY ORDERED that the Respondent shall henceforth comply with the requirements of General Statutes § 9-309, and not close or lock any operational voting machine prior to the close of the polls, unless a machine malfunctions or is determined not to have been set up properly.

For the State of Connecticut

Dated:

8/15/07

BY:

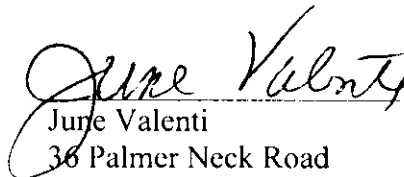


Joan M. Andrews, Esq.  
Director of Legal Affairs and Enforcement,  
and Authorized Representative  
of the State Elections  
Enforcement Commission  
20 Trinity Street  
Hartford, Connecticut

The Respondent,

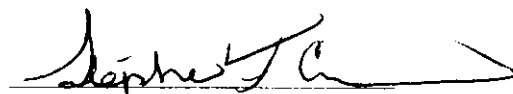
Dated:

8/14/07



June Valenti  
36 Palmer Neck Road  
Pawcatuck, Connecticut

Adopted this 15<sup>th</sup> day of August, 2007 at Hartford, Connecticut by vote of the Commission.



Stephen Cashman, Chairman  
By Order of the Commission