

MAR 20 2008

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
ENFORCEMENT
COMMISSION

In the Matter of a Complaint by
Joan B. Taf, Naugatuck

File No. 2007-226

AGREEMENT CONTAINING CONSENT ORDER FOR VIOLATION OF
CONNECTICUT GENERAL STATUTES § 9-262

This agreement, by and between Mary Lou Sharon (hereinafter, the "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 Connecticut General Statutes § 4-177 (c). In accordance herewith, the parties agree that:

1. On May 7, 2007 (hereinafter, "Election Day"), a municipal election was held in the Town of Naugatuck. Due to the large number of candidates running for office, the ballot for that election was two-sided. Notably, this was the first election in which the Town of Naugatuck utilized the new optical scan voting machines that had been approved by the Office of the Secretary of the State pursuant to Connecticut General Statutes § 9-242a.
2. The complainant, a resident and former Mayor of Naugatuck, voted early in the morning at the Cross Street School polling place on Election Day.
3. The Respondent was the Moderator/chief election official of that polling place.
4. When the complainant received her ballot from the ballot clerk, she requested a privacy sleeve to shield her ballot from view. She did not receive one.
5. The ballot clerk did not provide her with a privacy sleeve because he, and the rest of the election officials, believed that that Cross Street polling place was not provided with any sleeves by the Registrars of Voters. The Moderator of that polling place, Mary Lou Sharon, was aware that she needed privacy sleeves, but when she searched through her Election Day supplies, she was not able to locate them. She believed that the Registrars had failed to provide them to her.
6. As a result, Ms. Sharon sent an individual out to purchase materials that would act as privacy sleeves.
7. In addition, she contacted the Registrar of Voters and requested privacy sleeves. The Registrars assured her that the privacy sleeves were in her Election Day materials. Ultimately, she found the folders in the packet of materials provided by the Registrars and they were distributed to voters with their ballots.
8. Ms. Sharon's failure to recognize that the twelve manila folders provided by the Registrars were to act as privacy sleeves for every individual voting at the Cross Street School polling place can be attributed, in part, to a great deal of confusion at the polling place on the morning of the election. That confusion resulted from the following: the

first time use of paper ballots and the optical scan machines; the first machine used at that polling place stopped working after accepting two ballots; the phone lines at the polling place were out of service until well after the polls opened; and the privacy sleeves provided by the Registrars for consisted of twelve plain manila folders whereas the instructions provided by the Secretary of the State's office indicated that the privacy sleeves would be plastic or cardboard sleeves.

9. Once the complainant received her ballot, she proceeded to a privacy booth to mark it. There were three privacy booths available for use at the Cross Street polling place. Those booths were set up at least three feet from a wall and side by side, approximately three feet from one another. The complainant admits that, to her knowledge, no one saw how she marked her ballot while she was in the booth and the Commission has not uncovered any evidence to the contrary.
10. After marking her ballot, the complainant proceeded to the optical scan machine to submit her ballot and have her votes counted. She attempted to submit her ballot but the machine kept rejecting it. She was notified that the election officials were having problems with the machine. Several election officials surrounded the machine to assess the problem.
11. The complainant elected to wait with her ballot until the machine was fixed rather than place it in the auxiliary bin. She went back, stood in the front of the line shielding her two-sided marked ballot in front of her with her hands. She was not able to cover her entire ballot. As a result, some of her voting choices were visible.
12. The election officials were permitted by the Respondent to remain in front of the complainant as they were trying to correct the problems with the machines. At one point, the tabulator tender was permitted by the Respondent to stand a foot or so from the complainant while she attempted unsuccessfully to feed her ballot into the optical scan machine. The complainant cannot be certain whether the tabulator tender or any other individual actually ascertained or attempted to ascertain how she voted.
13. General Statutes § 9-262 (Rev. 2007) provides in pertinent part as follows:

. . . No election official shall remain or permit any person to remain in any position or near any position that would permit him to see or ascertain how an elector votes or how he has voted.
14. In the present case, the Respondent permitted several election officials, including the tabulator tender, to stand in front of and in close proximity to the complainant. The complainant was unable to completely shield her marked two sided ballot from their view because she was not provided with a privacy sleeve. As such, the Respondent permitted an election official to "remain in any position or near any position that would permit him to see or ascertain how [the complainant] . . . voted." The Respondent therefore violated Connecticut General Statutes § 9-262.
15. 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.

16. 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.

17. 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.

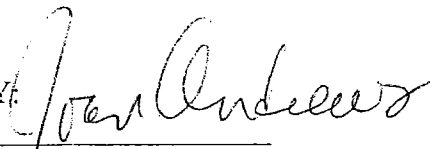
18. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent with respect to this matter.

ORDER

IT IS ORDERED that the Respondent shall henceforth strictly comply with the requirements of Connecticut General Statutes § 9-262.

For the State of Connecticut

Dated: *March 20, 2008*


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

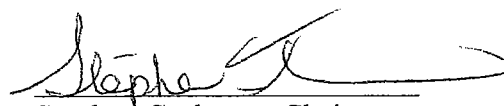
The Respondent,

Dated:

March 19, 2008


Mary Lou Sharon
228 Lewis Street
Naugatuck, CT 06770

JEB Adopted this ^{*9th*} ~~12th~~ day of ^{*April*} ~~March~~, 2008 at Hartford, Connecticut by vote of the Commission.


Stephen Cashman, Chairman
By Order of the Commission