

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Andre Grandbois, Plainville

File No. 2007-377

**AGREEMENT CONTAINING HENCEFORTH ORDER FOR VIOLATIONS OF
CONNECTICUT GENERAL STATUTES § 9-445**

This Agreement, by and between, Carol Skultety (hereinafter referred to as "Respondent"), of the Town of Plainville, County of Hartford, State of Connecticut and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with § 9-7b-54 of the Regulations of Connecticut State Agencies and § 4-177(c) of the General Statutes of Connecticut.

In accordance herewith, the parties agree that:

1. Complainant was one of seven candidates seeking the Republican nomination for Town Council in the Plainville September 11, 2007 Republican primary. The Respondent is the Town Clerk of Plainville.
2. Complainant received the least number of votes among the seven candidates, but was within 17 votes of the nearest candidate receiving the nomination. Another candidate, Thomas Arcari, was within five votes of the nearest candidate receiving the nomination.
3. Complainant claimed that Respondent never ordered a recanvass and, about a week after the Primary she asked him and the other losing candidate, Thomas Arcari, to sign a letter waiving their rights to a recanvass, which letter was backdated to September 12, 2007, the day following the primary.
4. On September 13, 2007, Thomas Arcari and the Republican Registrar of Voters had a conversation regarding any need for Mr. Arcari to sign any documents regarding waiving a recanvass, and was told no need. He said he would share this with the Complainant.
5. Connecticut General Statutes § 9-445 provides in pertinent part:

Forthwith after a primary for nomination to a municipal office or for election of members of a town committee, or forthwith upon tabulation of the vote for a state or district office by the Secretary of the State when the plurality of an elected or nominated candidate over the vote for a **defeated candidate receiving the next highest number of votes was either (1) less than a vote equivalent to one-half of one per cent of the total number of votes cast at the primary for the office or position** but not more than one thousand votes, or **(2) less than twenty votes, there shall be a recanvass** of the returns of the voting machine or voting machines used in such primary for said office or position **unless within one day after the primary**, in the case of nomination to a municipal office or for election of members of a town committee, **or prior to the time the Secretary of the**

State notifies the town clerk of state and district offices which qualify for an automatic canvass, the defeated candidate or defeated candidates, as the case may be, for such office or position file a written statement waiving this right to such canvass with the municipal clerk in the case of a municipal office or town committee, or with the Secretary of the State in the case of a state or district office. In the case of a state or district office, the Secretary of the State upon tabulation of the votes for such an office shall notify the town clerks in the state or district, as the case may be, of the state and district offices which qualify for an automatic canvass and shall also notify each candidate for any such office. **When a canvass is to be held the municipal clerk shall promptly notify the moderator, as defined in section 9-311,** who shall proceed forthwith to canvass such returns of the office in question in the same manner as is provided for a canvass in regular elections, except that the canvass officials shall be divided equally, as nearly as may be, among the candidates for such office. In addition to the notice required under section 9-311, the moderator shall, before such canvass is made, give notice in writing of the time and place of such canvass to each candidate for a municipal office which qualifies for an automatic canvass under this section. For purposes of this section, "the total number of votes cast at the primary for the office or position" means in the case of multiple openings for the same office or position, the total number of electors checked as having voted in the primary, in the state, district, municipality or political subdivision, as the case may be. **When a canvass of the returns for an office for which there are multiple openings is required by the provisions of this section, the returns for all candidates for all openings for the office shall be canvassed.** Nothing in this section shall preclude the right to judicial proceedings in behalf of such defeated candidate under any provision of this chapter.

6. Respondent acknowledged that she misread the statute and only applied the $\frac{1}{2}$ of 1% analysis. After realizing the error, she attempted to have the other losing candidate, Mr. Arcari, waive his right by asking him to sign a back dated letter. He dated his signature on September 26, although the letter the Respondent asked him to sign is dated September 12 in print.
7. Pursuant to Conn. Gen. Stat. § 9-445, an automatic canvass should have been ordered, unless the losing candidates, who were both within twenty votes of the successful candidate with the nearest number of votes, both waived their right to a canvass within one day of the primary. Any such canvass, pursuant to the express terms of Conn. Gen. Stat. § 9-445, was required to canvass the returns for all candidates for the office.
8. Respondent maintained that she did not knowingly and intentionally violate Connecticut election law. However, once she realized her failure to order a canvass she requested a letter from the losing candidates.
9. Failing to order a canvass or obtain waivers from both losing candidates, who were both within 20 votes of the next highest vote getter, within one (1) day of the September 11, 2007 Republican Primary, Respondent violated Connecticut General Statute § 9-445.

10. The Commission believes that this was a very serious omission, however, the Commission lacks the authority to impose a civil penalty for a violation of Conn. Gen. Stat. § 9-445, pursuant to Conn. Gen. Stat. § 9-7b.
11. Two members of the Commission's staff conducted such a recanvass to determine what a proper recanvass would have revealed. Although there were slight variances, the status of the five highest vote getters did not change vis-à-vis the Complainant and Mr. Arcari. However, the Commission feels strongly that the Complainant was entitled to such assurance in the time frame contemplated by Conn. Gen. Stat. § 9-445.
12. Respondent admits all jurisdictional facts and agree 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.
13. 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.
14. If the Commission accepts the Agreement, the Respondents 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 agreement or Order entered into pursuant to this agreement.
15. Upon the Respondent's agreement with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her pertaining to this matter.

ORDER

Respondent is hereby reprimanded and ordered to henceforth strictly comply with Connecticut General Statutes § 9-445.

The Respondent

Carol A. Skultety
Carol A. Skultety, Town Clerk
9 Thompson Road
Middlefield, CT 06455

Dated: 3-6-08

For the State Elections Enforcement Commission

BY:

John Andrews

John M. Andrews, Esq.
Director of Legal Affairs and Enforcement and
Authorized Representative of the State
Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

3/10/08

Adopted this 12th day of March of 2008 at Hartford, Connecticut

Stephen F. Cashman

Stephen F. Cashman, Chair
By Order of the Commission