

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Norman S. Douglas, Milford

File No. 2007-411

AGREEMENT CONTAINING CONSENT ORDER

This agreement, by and between Michael J. Petrucelli of the City of Milford, County of New Haven, State of Connecticut (hereinafter referred to as 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. Complainant alleged that he was denied a secret ballot because when he voted on November 6, 2007 in the City of Milford at the District 5 polling place at the Harborside Middle School, the tabulator tenders were leaning against the voting tabulator while he inserted his ballot and glanced at his ballot while he inserted it into the scanner.
2. Respondent was an official poll worker at the District 5 polling place in the City of Milford at the November 6, 2007 municipal election. Respondent was assigned to the voting tabulator as a tabulator tender to insure that individuals inserted their ballots correctly into the machine.
3. Respondent recalls receiving training from the District 5 Moderator with regard to the new voting system and that ballots could be inserted into the voting tabulator's optical scanner either face-up or face-down. Respondent recalls specific instructions prior to the election with regards to remaining three feet back from the voting tabulators while individuals inserted their ballots.
4. Connecticut General Statutes § 9-262, as amended by P.A. 07-194, provides in pertinent part:

During the entire period of an election, at least one of the election officials shall be stationed approximately three to four feet from the voting tabulator to regulate the submission of the elector's ballot. The election officials shall also, at such intervals as such officials deem proper or necessary, examine the voting booth to ascertain whether it has been defaced or damaged and to detect the wrongdoer and repair the damage. After the opening of the polls, no election official shall allow any person other than the election officials to pass within the area where the voting booths and voting tabulator are situated, except for the purpose of voting or except

as provided in this part. *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.* [Emphasis added.]

5. The investigation revealed and the Respondent admits that, during the course of the November 6, 2007 municipal election in the City of Milford at the Harborside Middle School polling place he was in close proximity to and within three feet of the voting tabulator while individuals inserted their ballots and witnessed individuals doing the same.
6. Respondent asserts that he remained close to the voting tabulator due to the confusion caused among electors and election officials due to the new voting system..
7. The Commission concludes that by remaining in close proximity to and within three feet of the voting tabulator throughout Election Day while electors inserted their ballots, Respondent was in a position that would permit him to see or ascertain how an elector voted, and thereby Respondent violated Conn. Gen. Stats. § 9-262.
8. Pursuant to Connecticut General Statutes § 9-236b, the Voter's Bill of Rights provides:

Every registered voter in this state has the right to:
...
(9) Vote . . . in privacy at a polling place,
If any of your rights have been violated, you have the right to file an official complaint with the State Elections Enforcement Commission . . . or the United States Department of Justice In addition, before leaving the polling place you may notify the moderator of the violation."
9. In addition, the Constitution of the State of Connecticut provides that "the right of secret voting shall be preserved." Constitution of the State of Connecticut, Article Sixth, § 5, Amendments to the Constitution of the State of Connecticut, Article XXIV.
10. Respondent denies that he viewed or attempted to view how any individual's ballot was voted at the November 6, 2007 municipal election at the District 5 Harborside Middle School polling place.
11. Further, the other tabulator tender, the District 5 Moderator, and the polling place official responsible for collecting the privacy sleeves from the Respondent maintain that they did not observe the Respondent attempting to view how ballots were marked.


12. The Commission concludes that with respect to the allegation that Complainant was denied a secret ballot because the tabulator tenders allegedly glanced at his ballot while he inserted it into the optical scanner, there is insufficient evidence to prove a violation of Conn. Gen. Stats. § 9-236b.
13. 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.
14. 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.
15. 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.
16. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-262, and maintain the appropriate distance from the tabulator, unless an elector asks him for assistance.

For the State of Connecticut

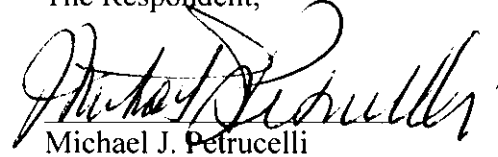
Dated: 2/25/08

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

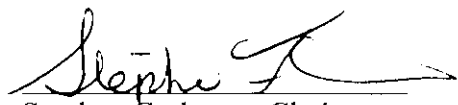
The Respondent,

Dated:



Michael J. Petrucelli
4 Bayberry Lane
Milford, Connecticut

Adopted this ^{12th} ~~20~~ day of ^{March} Feb, 2008 at Hartford, Connecticut by vote of the Commission.



Stephen Cashman, Chairman
By Order of the Commission