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ENFORCEMENT
COMMISSION

STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
David F. Walsh, Stafford Springs

File No. 2007-423

**AGREEMENT CONTAINING CONSENT ORDER FOR VIOLATIONS OF
CONNECTICUT GENERAL STATUTES §§ 9-140(a), 9-140b(d) & 9-140b(e)**

This agreement by and between Douglas Minich, of the Town of Stafford, County of Tolland, 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 Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Complainant is the chairperson of the Stafford Democratic Town Committee (SDTC). He filed this complaint based on a sworn statement that he received from the Stafford Town Clerk, Carol Davis. The statement concerns the "*disposition of an absentee ballot by a part-time employee of the Town of Stafford*" and implicates unauthorized possession of an absentee ballot.
2. Respondent is an employee of the Town of Stafford and works under the supervision of the incumbent First Selectman and Republican Party's endorsed candidate for re-election, Allen Bacchiochi at the November 6, 2007 municipal election. This is the first time Respondent has been involved in the acquisition and completion of an absentee ballot application and an absentee ballot.
3. Respondent maintains that he accompanied his supervisor, First Selectman Allen Bacchiochi, to Shirley E. Svejck's home in Mr. Bacchiochi's truck, picked her up and brought her to the Town Hall. While Ms. Svejck stayed in the truck, Respondent went inside the building to get an Application for Additional Absentee Ballot, ED-3A form, for her. He returned to the truck with the application, assisted Ms. Svejck in the completion of the form by completing portions of the form, which she signed and he took back to the Town Clerk.
4. Section 9-140(a), General Statutes, provides in pertinent part:

“...Any person who assists another person in the completion of an application [for an absentee ballot] shall, in the space provided, sign the application and print or type his name, residence address and telephone number.”
5. The Secretary of the State and the Commission has interpreted § 9-140(a) to apply to anyone who completes *any part of the application form* for the applicant.

6. The application form contains, directly below the applicant's signature block, instructions for a person, rendering assistance to the applicant, to sign the application, print his/her name and provides his/her residence address and telephone number. The instructions read as follows: *"To be completed by any person who assists another person in the completion of this application."*
7. The Respondent failed to sign and to print his name, residence address and telephone number on the absentee ballot application that he assisted Ms. Svejck with, in violation of Conn. Gen. Stat. § 9-140(a).
8. The absentee ballot application and ballot were executed for the prospective municipal election to be held in the Town of Stafford on November 6, 2007.
9. Respondent maintains that, at no time prior to the election, did he get involve in campaign activities, placed lawn signs or distributed campaign materials on behalf of Allen Bacchiochi's re-election committee.
10. Connecticut General Statutes § 9-140b(e), provides in part:

"No... agent of a candidate, political party or committee as defined in Section 9-601, shall knowingly be present when an absentee ballot applicant executes an absentee ballot..."
11. Connecticut General Statutes § 9-601(27) provides that "agent" means any person acting at the direction of an individual.
12. The Respondent was an agent of the candidate, Allen Bacchiochi, within the meaning of Conn. Gen. Stats. §§ 9-140b(c) and 9-601, because he was acting at his direction in assisting Ms. Svejck.
13. Respondent admits that he was in the truck with the elector and assisted her in the execution of her absentee ballot while parked in front of the Stafford Town Hall.
14. Respondent maintains that he observed that Ms. Svejck had difficulty in completing the application and offered to assist her since *"she said she could not see too well and her hand shook."* He then marked the ballot for her in accordance with her direction, after the Town Clerk brought it out to the truck.
15. Respondent admits that he took possession of the ballot after it was sealed and inserted in the envelopes, and hand-delivered it to the Town Clerk's Office.
16. Connecticut General Statutes § 9-140b(d), , further provides:

"No person shall have in his possession any official absentee ballot or ballot envelope for use at any primary, election or referendum except the applicant to whom it was issued, the Secretary of the State or his or her authorized agents, any official printer of

absentee ballot forms and his designated carriers, the United States Postal Service, any other carrier, courier or messenger service recognized and approved by the Secretary of the State, any person authorized by a municipal clerk to receive and process official absentee ballot forms on behalf of the municipal clerk, any authorized primary, election or referendum official or any other person authorized by any provision of the general statutes to possess a ballot or ballot envelope.” [Emphasis added.]

17. It is concluded that Respondent violated Connecticut General Statutes § 9-140b(e) by being present, as an agent of a candidate, while an absentee ballot was executed for the November 6, 2007 municipal election.
18. It is concluded that Respondent was ineligible to take possession of the ballot and therefore violated Connecticut General Statutes §9-140b(d) by taking possession of the ballot. Pursuant to Connecticut General Statutes § 9-140b(a), the ballot could not be counted and had to be rejected.
19. Respondent claims that he was unaware of the legal requirements of Connecticut General Statutes §§ 9-140(a), 9-140b(d) and 9-140b(e) and that any violations of election laws were unintentional.
20. The Commission is authorized by Conn. Gen. Stats. § 9-7b(a) to impose a civil penalty not to exceed \$2000 for each violation of Conn. Gen. Stats. § 9-140b and has historically treated absentee ballot abuse very severely. The Respondent truly regrets his violations and apologizes to both the Commission and the town employees for his actions. The Commission acknowledges that the act creating liability in one violation, namely acting at the direction of his superior, is something a subordinate employee should typically comply with, unless it requires an illegal act, and takes into consideration that he is not a campaign operative, was well intentioned and not trying to manipulate the elector in question. However, his failure to comply with strict absentee ballot laws meant that the ballot that the Respondent handled could not be counted, and another town official had to go to elector’s home and assist with a new application. The Commission has also considered in fashioning a remedy that this was an isolated occurrence and is not likely to be repeated.
21. 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.
22. 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.
23. Respondent admits all jurisdictional facts and 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.

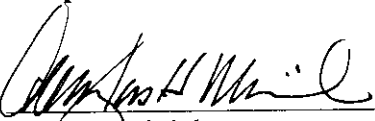
24. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

ORDER

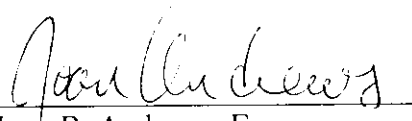
IT IS HEREBY ORDERED THAT the Respondent shall pay a civil penalty of ~~six hundred~~ ^{Three hundred} Dollars (~~\$600.00~~) to the Commission on or before June 9, 2008. DAM

DAM IT IS FURTHER ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of Connecticut General Statutes §§ 9-140(a), 9-140b(d) and 9-140b(e). CT

The Respondent:

By: 
 Douglas Minich
 40 East Street
 Stafford, CT 06076-1243

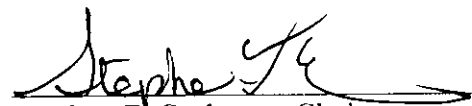
For the State Elections Enforcement Commission:

By: 
 Joan B. Andrews, Esq.
 Director of Legal Affairs & Enforcement
 and Authorized Representative of the
 State Elections Enforcement Commission
 20 Trinity Street, Suite 101
 Hartford, CT 06106

Dated: 7-1-08

Dated: 7/7/08

Adopted this 10th day of JULY of 2008 at Hartford, Connecticut.


 Stephen F. Cashman, Chairman
 By Order of the Commission