

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Lori Kaback, Danbury

File No. 2008-098

FINDINGS AND CONCLUSIONS

Complainant is the City of Danbury Town Clerk and makes this complaint pursuant to Connecticut General Statutes §9-7b, concerning Terrance Tierney, who was registered to distribute absentee ballot applications in accordance with General Statutes § 9-140, but who did not return a list of individuals to whom he distributed the absentee ballot applications pertaining to the August 12, 2008 Democratic primary in the 24th Senatorial District.

After an investigation of the matter, the Commission makes the following findings and conclusions:

1. On July 10, 2008 Mr. Tierney received absentee ballot application numbers 7655 – 7754 from the Danbury Town Clerk's office. Respondent was registered with the Town Clerk's office on their absentee ballot application log as a person distributing five or more absentee ballot applications. Respondent was also provided with copies of an "Absentee Ballot Application Distribution List."
2. The Democratic Party in the 24th Senatorial District, which includes Bethel, part of Danbury, New Fairfield and Sherman, held a primary on August 12, 2008 for State Senator representing that Senatorial District.
3. On August 14, 2008, the Complainant filed the instant complaint with the Commission because Mr. Tierney had failed to file an "Absentee Ballot Application Distribution List" with her office prior to the August 12, 2008 primary, in which he was also a candidate.
4. General Statutes §9-140, provides in pertinent part:

(k) (1) A person shall register with the town clerk before distributing five or more absentee ballot applications for an election, primary or referendum, not including applications distributed to such person's immediate family. Such requirement shall not apply to a person who is the designee of an applicant.

(2) Any person who distributes absentee ballot applications shall maintain a list of the names and addresses of prospective absentee ballot applicants who receive such applications, and shall file such list with the town clerk prior to the date of the primary, election or referendum for which the applications were so distributed. Any person who distributes absentee ballot applications and receives an executed

application shall forthwith file the application with the town clerk.
[Emphasis added.]

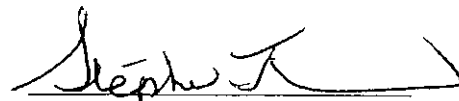
5. On November 6, 2008, a representative of Mr. Tierney's campaign returned unused, 97 of the 99 absentee ballot applications that Mr. Tierney received from the Town Clerk's office.
6. Mr. Tierney could not account for the 2 applications that were not returned to the Complainant's office. Mr. Tierney maintains that he did not distribute any absentee ballot applications in connection with the primary.
7. The Town Clerk confirmed that no absentee ballot sets were issued based on absentee ballot applications numbered 7655 – 7754 that were provided to Mr. Tierney.
8. The Commission has previously determined in factually similar cases, that in instances where there is no evidence that absentee ballot applications were actually distributed, General Statutes § 9-140(k)(2) does not require that a blank list be filed with the Town Clerk's office. (See *In the Matter of a Referral by Mary Lou Payette, Town Clerk North Haven State Elections Enforcement Commission File No. 2005-302*; see also *In the Matter of a Complaint by Therese Pac, Bristol State Elections Enforcement Commission File No. 2006-269*).
9. Accordingly, the Respondent was not required to file an "Absentee Ballot Application Distribution List" with the Town Clerk's office since none of the absentee ballot applications were actually distributed.

ORDER

The following Order is recommended on the basis of the aforementioned findings:

That the matter be dismissed.

Adopted this 19th day of November 2008 at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission