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ENFORCEMENT
COMMISSION

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Robert Symmes, West Haven

File No. 2008-096

AGREEMENT CONTAINING CONSENT ORDER
FOR VIOLATIONS OF CONNECTICUT GENERAL STATUTES § 9-50b

This agreement, by and between Charles Marino of the City of West Haven, County of New Haven, State of Connecticut, hereinafter referred to as the Respondent, and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with General Statutes § 4-177(c) and Section 9-7b-54 of the Regulations of Connecticut State Agencies. In accordance herewith, the parties agree that:

1. The Complainant, Robert Symmes, a resident of West Haven, Connecticut, filed a Complaint with the Commission alleging that the Respondent, the Democratic Registrar of Voters for the City of West Haven, violated Connecticut General Statutes § 9-50b by failing to promptly update the state-wide voter registration system to indicate whether the eligible voters on the official registry list voted in an election or primary and, if so, the method by which they voted.
2. The Complainant specifically references the September 11, 2007 Democratic Primary, the November 5, 2007 general election, and February 5, 2008 Presidential Preference Primary.
3. General Statutes § 9-50b, as amended by Public Act 07-194, provides as follows:

(a) As used in this section, "state-wide centralized voter registration system" means a computerized system designed and maintained by the Secretary of the State which includes: (1) Voter registration information prescribed by the Secretary, (2) information contained in applications for admission as electors described in section 9-20, (3) information needed to compile registry lists and enrollment lists under sections 9-35 and 9-54, (4) information required by section 9-50a, and (5) other information for use in complying with the provisions of this title. . . .

(d) After each election or primary, the registrars of voters shall promptly update the state-wide centralized voter registration system and indicate whether the eligible voters on the official registry list for such election or primary voted and, if so, if they voted in person or by absentee ballot. [Emphasis added.]

4. General Statutes § 9-1 (p) provides the following definition of "Registrars" as used in Title 9 of the General Statutes:

(p) "Registrars" means the registrars of voters of the municipality [Emphasis added.]

5. General Statutes § 9-372 provides in pertinent part that:

(11) "Primary" means a meeting of the enrolled members of a political party and, when applicable under section 9-431, unaffiliated electors, held during consecutive hours at which such members or electors may, without assembling at the same hour, vote by secret ballot for candidates for nomination to office or for town committee members;

(12) "**Registrar**" means the registrar of voters in a municipality who is enrolled with the political party holding a primary and, in each municipality where there are different registrars for different voting districts, means the registrar so enrolled in the voting district in which, at the last-preceding regular election, the presiding officer for the purpose of declaring the result of the vote of the whole municipality was moderator [Emphasis added.]

6. The requirements of General Statutes § 9-50b (d) clearly apply to West Haven's Registrars of Voters jointly for general elections and individually for the specific primaries. As such, West Haven's Republican Registrar of Voters, Jo Ann Callegari is also implicated by the specific elections and primaries referenced in the Complaint. The disposition of this matter concerning Respondent Callegari will be addressed separately by the Commission.

7. As noted above, General Statutes § 9-50b (d) requires that "[a]fter each election or primary, the registrars of voters shall promptly update the state-wide centralized voter registration system and indicate whether the eligible voters on the official registry list for such election or primary voted and, if so, if they voted in person or by absentee ballot." [Emphasis added.]

8. This is a case of first impression for the Commission as it has never interpreted the term "promptly" as used in that provision. Notably, the Secretary of State also has not provided a written interpretation of that term.

9. The Respondent admits that he was aware that General Statutes § 9-50b was amended in July of 2007 to require him to "promptly" update the centralized voter registration system after each primary and election to reflect if and how an elector voted. He maintains, however, that he believed that the term "promptly" had a loose meaning. He added that he interpreted the term to mean "immediate" but not urgent.

10. He further stated that he believes "promptly" should be interpreted in a way that accounts for all of the Registrars' responsibilities. In other words, he asks that the Commission interpret that term in a way that gives the Registrars a reasonable amount of time to complete the tasks required by § 9-50b in light of the other tasks assigned to them, including those concerning the new optical scan voting system.

11. With respect to the September 11, 2007 Democratic Primary, the Respondent admits, however, that he did not complete the state-wide centralized voter registration system update until August of 2008, nearly a year after that primary.
12. The Respondent maintains that the update took this long because it was the first time he was updating the system and did not really understand how to change the voter records in an efficient manner. He further maintains that the Registrars were dealing with all the new responsibilities that accompanied the new voting machines that were being utilized in that primary. He admits that because the machines were new he elected to dedicate himself to preparing for the November 6, 2007 general election as well as the February 5, 2008 presidential preference primary rather than finish the system update. He further maintains that he was handling all the responsibilities that come with the registration of new Democratic voters.
13. However, while the Commission understands that the system update was a new responsibility for the Respondent, it concludes that the Respondent's completion of the system update for the September 11, 2007 primary nearly one year later was not prompt within the meaning of General Statutes § 9-50b. As such, the Commission concludes that the Respondent violated General Statutes § 9-50b (d).
14. With respect to the November 6, 2007 municipal election and the February 5, 2008 presidential preference primary, the Respondent admits that the update was not complete as of August of 2008 although he maintains that the update for the November 6, 2007 election was "substantially done."
15. The Commission concludes that the Respondent did not "promptly" update the state-wide centralized voter registration system after the November 6, 2007 election nor the February 5, 2008 Presidential Preference Primary. As such, the Respondent violated General Statutes § 9-50b (d) with respect to that election and primary.
16. Finally, the Commission notes that as of January of 2009, the Respondent will no longer act as Democratic Registrar of Voters for the City of West Haven.
17. 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.
18. 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.
19. 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 agreement or Order entered into pursuant to this agreement.

20. 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 Connecticut General Statutes § 9-50b.

For the State of Connecticut

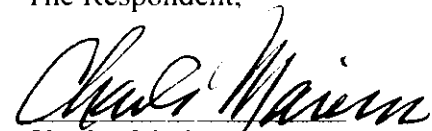
Dated: 2/10/09

BY: 

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

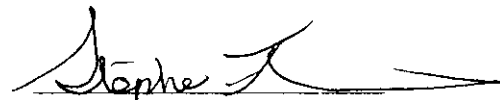
Dated: 2/5/09

The Respondent,



Charles Marino
93 East Brown Street
West Haven, CT 06516-5130

Adopted this 11th day of February, 2009 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission