

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
STATE ELECTIONS

SEP 16 2010

File No. 2009-006

In the Matter of a Complaint by
Peter Goff and Laura Wolfe, Granby

ENFORCEMENT COMMISSION

**AGREEMENT CONTAINING CONSENT ORDER AND
PAYMENT OF A CIVIL PENALTY FOR VIOLATION OF
CONNECTICUT GENERAL STATUTES § 9-7b (a)(2)(C) & 9-42**

This Agreement, by and between Sean K. Sullivan, of the Town of Naugatuck, County of New Haven, State of Connecticut 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. Complainants, respectfully the Republican and Democratic Registrars of Voters in the Town of Granby, filed the instant Complaint alleging that on Election Day November 4, 2008 Respondent Sean K. Sullivan, renewed his inactive voter registration in the Town of Granby and voted when at the time Mr. Sullivan was not a bona fide resident of Granby.
2. Respondent had been an active voter in Granby, but was moved to inactive status in March 2008 based on the National Change of Address (NCOA) system.
3. On November 4, 2008, Respondent presented himself at the polling place at Granby Memorial High School in Granby to vote and stated to the checker that he was living at the address listed on his registration card and presented identification bearing said address. However, because Respondent's registration status was "inactive," he was referred to the Assistant Registrar.
4. Again, the Respondent represented to the Assistant Registrar that he was living at the address listed on his registration card and presented the identification that corroborated his claim. The Assistant Registrar made contact with both Complainants and, based on the Respondent's claim and showing of identification, they instructed the Assistant Registrar to remove the Respondent from the inactive registry list according to the requirements and procedures enumerated in General Statutes § 9-42.
5. Before the Assistant Registrar at the polling place, the Respondent completed and signed a voter registration application under the penalties of perjury, that Respondent was still a bona fide resident of the Town of Granby. Respondent's name was then added to the active registry list and he forthwith proceeded to cast his ballot at the polling place.¹

¹ While the Respondent filled out a new voter registration application form under the penalties of perjury, per General Statutes § 9-20, it is important to note that the procedures otherwise followed on that day were for the purpose of restoring the Respondent to active voter status per General Statutes § 9-42, *supra*, not for registering him as a new voter per General Statutes § 9-20.

6. Shortly after the aforementioned date, the Complainants sent via postal mail a standard confirmation of voting residence to the address on Respondent's voter registration application, but such confirmation was returned by the postal service with a statement that no one by Respondent's name resided at that address.

7. General Statutes § 9-7b, provides in pertinent part:

(a) The State Elections Enforcement Commission shall have the following duties and powers:

...

(2) To levy a civil penalty not to exceed . . . (C) two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum, . . . [Emphasis added.]

8. General Statutes § 9-12, provides in pertinent part:

(a) Each citizen of the United States who has attained the age of eighteen years, and who is a bona fide resident of the town to which the citizen applies for admission as an elector shall, on approval by the registrars of voters or town clerk of the town of residence of such citizen, as prescribed by law, be an elector, except as provided in subsection (b) of this section. . . . (Emphasis added.)[Emphasis added.]

9. General Statutes § 9-20, provides in pertinent part:

(a) Each person who applies for admission as an elector in person to an admitting official shall, upon a form prescribed by the Secretary of the State and *signed by the applicant, state under penalties of perjury*, his name, bona fide residence by street and number, date of birth, whether he is a United States citizen, whether his privileges as an elector are forfeited by reason of conviction of crime, and whether he has previously been admitted as an elector in any town in this or any other state. Each such applicant shall present his birth certificate, drivers' license or Social Security card to the admitting official for inspection at the time of application. Notwithstanding the provisions of any special act or charter to the contrary, the application form shall also, in a manner prescribed by the Secretary of the State, provide for application for enrollment in any political party, including, on any such form printed on or after January 1, 2006, a list of the names of the major parties, as defined in section 9-372, as options for the applicant. The form shall indicate that such enrollment is not mandatory. . . . [Emphasis added.]

10. General Statutes § 9-42, provides in pertinent part:

...

(c) The registrars of voters shall cause the inactive registry list compiled under section 9-35 to be completed and printed and deposited in the town clerk's office and shall provide a sufficient number of copies for use in the polling place on election day. If on election day the name of an elector appears on such inactive registry list, including the name of an elector who has not responded to a confirmation of voting residence notice under subsection (e) of section 9-35 and has not voted in two consecutive federal elections, such name shall be added to the active registry list upon written affirmation signed by the elector, under penalties of false statement, before an election official at the polling place, that *such elector is still a bona fide resident of such town*, and upon the consent of both registrars or assistant registrars, as the case may be, in the polls.

(d) The name of no elector shall be added to the active registry list under the provisions of this section, unless his name or some name intended for his name was on the active registry list for at least one of the four years previous or on one of the preliminary active registry lists for the year in which the registrars are in session. [Emphasis added.]

11. General Statutes § 9-172, provides in pertinent part:

At any regular or special state election any person may vote who was registered on the last-completed revised registry list of the town in which he offers to vote, and he shall vote in the district in which he was so registered; provided those persons may vote whose names are restored to the list under the provisions of section 9-42 or whose names are added on the last weekday before a regular election under the provisions of section 9-17. Each person so registered shall be permitted to vote if he is a bona fide resident of the town and political subdivision holding the election and has not lost his right by conviction of a disfranchising crime. Any person offering so to vote and being challenged as to his identity or residence shall, before he votes, prove his identity with the person on whose name he offers to vote or his bona fide residence in the town and political subdivision holding the election, as the case may be, by the testimony, under oath, of at least one other elector or by such other evidence as is acceptable to the moderator. [Emphasis added.]

12. General Statutes § 9-357, provides in pertinent part:

Any person who fraudulently procures himself or another to be registered as an elector shall be fined not more than five hundred

dollars or imprisoned not more than one year or be both fined and imprisoned. [Emphasis added.]

13. General Statutes § 9-358, provides in pertinent part:

Any person who, upon oath or affirmation, legally administered, wilfully and corruptly testifies or affirms, before any registrar of voters, any moderator of any election, primary or referendum, any board for admission of electors or the State Elections Enforcement Commission, falsely, to any material fact concerning the identity, age, residence or other qualifications of any person whose right to be registered or admitted as an elector or to vote at any election, primary or referendum is being passed upon and decided, shall be guilty of a class D felony and shall be disfranchised. [Emphasis added.]

14. General Statutes § 9-360, provides in pertinent part:

Any person not legally qualified who fraudulently votes in any town meeting, primary, election or referendum in which the person is not qualified to vote, and any legally qualified person who, at such meeting, primary, election or referendum, fraudulently votes more than once at the same meeting, primary, election or referendum, shall be fined not less than three hundred dollars or more than five hundred dollars and shall be imprisoned not less than one year or more than two years and shall be disfranchised. Any person who votes or attempts to vote at any election, primary, referendum or town meeting by assuming the name of another legally qualified person shall be guilty of a class D felony and shall be disfranchised. [Emphasis added.]

15. In order to establish liability in the present case, Respondent must not have been qualified to vote in Granby on November 4, 2008. As noted above, General Statutes § 9-12 sets forth elector qualifications. In the present case, no one contests that the Respondent was a citizen of the United States and had attained the age of eighteen years at the time he renewed his registration and voted. As such, the determinative question is whether Respondent was a “bona fide resident” of Granby at the time. If not, he may be found to be liable for unlawfully voting pursuant to General Statutes §§ 9-7b, 9-42, 9-172, 9-357, 9-358, and 9-360 and improperly completing a voter registration application pursuant to § 9-20.

16. According to the Commission, an individual’s bona fide residence is the place where that individual maintains a true, fixed, and principal home to which he, whenever transiently relocated, has a genuine intent to return. See, e.g., *Complaint of James Cropsey, Tilton, New Hampshire*, File No. 2008-047 (2008). In other words, the term “bona fide residence” is generally synonymous with domicile. *Id.*; cf. *Hackett v. The City of New Haven*, 103 Conn. 157 (1925).

17. At the time of his original registration in Granby in October of 2003, Respondent was a bona fide resident in his father's house in Granby, but that status had changed by the time that he presented himself to the poll workers in the instant matter. By Respondent's own admission, on the relevant date in this matter, Election Day, November 4, 2008, he did not maintain a true, fixed, and principal home in the Town of Granby to which he, whenever transiently relocated, had a genuine intent to return. Although he had once lived at the address in Granby, which had been owned by his father, the residence had been sold and he had permanently moved out of town at least six months prior to the relevant date in this matter. As such, the Commission finds that Respondent was not a bona fide resident of the Town of Granby on the relevant date in the matter.
18. Accordingly the Commission finds that on November 4, 2008, Respondent violated General Statutes § 9-42 by misrepresenting his residency status in order to reactivate his inactive registration.
19. Moreover, the Commission finds that on November 4, 2008 the Respondent improperly voted in the Town of Granby by casting a ballot in a jurisdiction in which he was not a bona fide resident and therefore not legally qualified to vote therein, thereby violating General Statutes § 9-7b (a)(2)(C).
20. General Statutes § 9-7b (a)(2) provides that the Commission may assess a civil penalty of two thousand dollars for each violation of General Statutes § 9-42. Section 9-7b(a)(2)(C) also provides that the Commission may assess a \$2,000 civil penalty per offense against any individual the Commission finds to have (i) improperly voted in any election, primary or referendum and (ii) not been legally qualified to vote in such election, primary or referendum. The Commission may also refer evidence of a violation of the state election laws to the Chief State's Attorney's office, United States Attorney or United States Department of Justice, pursuant to Connecticut General Statutes § 9-7b(a)(7) and (11).
21. Regulations of Connecticut State Agencies § 9-7b-46(a) provides:

The Commission is authorized to act in accordance with the powers granted to it under Section 9-7b and 9-369b and Chapter 150 of the General Statutes. *Except in circumstances when its investigation reveals significant evidence of a criminal violation or violations of the state election laws within its jurisdiction, the Commission shall attempt to resolve cases pending before it by use of its civil and administrative authority, including but not limited to, the issuance of orders necessary to secure compliance with such laws. [Emphasis added.]*
22. By Respondent's own admission, he resided in his father's new home in Naugatuck, Connecticut on the relevant date, but had not yet transferred his registration to that town before the deadline had passed to do so for the November 2008 general election. He wanted to cast a ballot in the presidential election and was not aware that pursuant to General Statutes § 9-175 he was allowed to cast a presidential ballot even though he

was not validly registered in any town. Instead, he traveled over an hour back to his former polling place in Granby in order to cast his ballot.²

23. Respondent has not been before this Commission on any prior matter. On the relevant date, he was twenty three (23) years old and had voted once before in the 2004 general election and again in the 2008 presidential preference primary. Respondent has no special education, training and/or experience in law, campaign finance and/or the administration of elections that would create a heightened expectation under these facts.³ Importantly, no vote was cast by Respondent in any other jurisdiction on the relevant date. Moreover, even assuming that Respondent had cast a vote in each of the races on the Granby ballot, such vote would not have materially changed the outcome of any one race therein. Finally, Respondent acknowledges that the above violations are serious and subject him to possible criminal penalties.
24. 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.
25. 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.
26. 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 Order entered into pursuant to this Agreement.
27. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

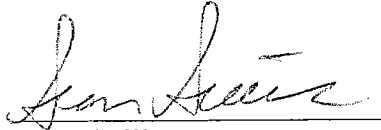
² At the time the instant Complaint was filed, Respondent had moved out of his father's home to a rental property in New Britain.

³ Compare with *Complaint of Stephanie DeForest, Southbury*, File No. 2008-224 (2008) (Respondent, a recent graduate of Cornell Law School, fined \$1,500 for falsely submitting a registration statement in the town of Southbury and improperly voting therein while being a bona fide resident of New York State).

ORDER

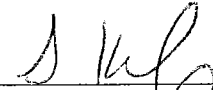
IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with the requirements of Connecticut General Statutes §§ 9-7b (a)(2)(C) & 9-42.

The Respondent:



Sean Sullivan
280 Conrad St.
Naugatuck, CT

For the State of Connecticut:

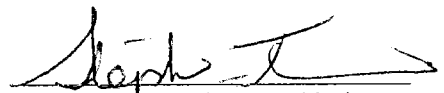
BY:  _____

Shannon C. Kief, Esq.
Legal Program Director
& Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT

Dated: 9/9/10

Dated: 9/16/10

Adopted this 22 day of Sept. of 2010 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission