

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Jackson Chin
New York

File No. 2009-059

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to General Statutes § 9-7b and asserts that Adrienne Sostre was prevented from voting at her local polling place on November 4, 2008 because her name was not on the official voting list.

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

1. Complainant is Associate Counsel for Latino Justice PRLDEF (formerly Puerto Rican Legal Defense & Education Fund and hereinafter Latino Justice).
2. It should be noted that Chin made reference in his complaint to Latino Justice receiving 470 calls from Connecticut through the Latino Justice protection hotline for the November 4, 2008 Presidential Election and that of the 470 calls, over 249 of the calls were to report problems or inquire about their voter registration status. Beyond the allegations involving Adrienne Sostre, Chin provided no supporting information or details regarding the other 249 callers reporting problems or inquiring about their voter registration status that he referenced in his letter.
3. Accordingly, due to the facts that Chin did not provide a concise and explicit statement of facts bearing upon the violations asserted, the identity of any other person who may have knowledge of the facts asserted in the complaint and or any other document or real evidence bearing upon the violations alleged in the complaint, the Commission took no action as to these assertions.
4. As to Adrienne Sostre, Chin alleges that Sostre was prevented from voting at her local polling place on November 4, 2008 because her name was not on the official voting list. He further asserts that polling place officials instructed Sostre to go to the local Registrars of Voters office to cast a Presidential ballot, which she did.
5. Chin claims that at some time in mid-2007, Sostre mailed in her completed voter registration form along with her Department of Motor Vehicles (hereinafter DMV) license renewal payment.
6. Chin claims that the voter registration application form was provided in accord with NVRA § 5 (requiring that states offer voter registration simultaneously with driver's license application or renewal, 42 U.S.C. § 1973GG-3(A)(1) (referred to in § 1973gg-2 and § 1973gg-6).

7. According to Chin, under NVRA, state DMV authorities must transmit the voter registration application to the appropriate election authorities "not later than 10 days after the date of acceptance" pursuant to 42 U.S.C. § 1973gg-3 (e)(1) except when the application is received within 5 days of the close of voter registration, 42 U.S.C. § 1973gg-3 (e)(1).
8. According to Chin, Sostre did not receive any further communication from the State, DMV or the local registrar's office, and there is no doubt that Ms. Sostre's voter application was not properly processed despite over a year having passed between her 2007 mailing and the 2008 date of election.
9. General Statutes § 9-19h provides:

(a) The Department of Social Services, the Labor Department and the Department of Motor Vehicles shall make voter registration information and materials available to the public. Such information and materials shall be placed in public areas of the offices of such departments. The State Library and the libraries of the state's public institutions of higher education shall also make such information and materials available to users of the libraries. The Secretary of the State shall provide such departments, such libraries and any libraries open to the public with suitable nonpartisan literature, materials and voter registration application forms authorized under sections 9-23g and 9-23h. The secretary shall also provide to the Department of Social Services, the Labor Department and the Department of Motor Vehicles any furniture needed to display such literature, materials and forms.

(b) In addition to the requirements of subsection (a) of this section, the Commissioner of Motor Vehicles, not later than January 1, 1994, shall include an application for the admission of an elector with each application form provided for a motor vehicle operator's license and a motor vehicle operator's license renewal, which are issued under subpart (B) of part III of chapter 246, and with each application form provided for an identity card issued under section 1-1h. Such application form for the admission of an elector (1) shall be subject to the approval of the Secretary of the State, (2) shall not include any provisions for the witnessing of the application, and (3) shall contain a statement that (A) specifies each eligibility requirement, (B) contains an attestation that the applicant meets each such requirement, and (C) requires the signature of the applicant under penalty of perjury. The Commissioner of Motor Vehicles shall accept any such completed application for admission which is submitted in person or by mail. The applicant shall state on such form, under penalty of perjury, the applicant's name, bona fide residence address, date of birth, whether the applicant is a United States citizen, party enrollment, if any, prior voting address, if registered previously, and that the applicant's privileges as an elector are not forfeited by reason of conviction of a felony. No Social Security number on any such application form for the admission of an elector filed prior to January 1, 2000, may be disclosed to the public or to any governmental agency. The commissioner shall indicate on each such

form the date of receipt of such application to ensure that any eligible applicant is registered to vote in an election if it is received by the Commissioner of Motor Vehicles by the last day for registration to vote in an election. The commissioner shall provide the applicant with an application receipt, on a form approved by the Secretary of the State and on which the commissioner shall record the date that the commissioner received the application, using an official date stamp bearing the words "Department of Motor Vehicles". The commissioner shall provide such receipt whether the application was submitted in person or by mail. The commissioner shall forthwith transmit the application to the registrars of voters of the applicant's town of residence. If a registration application is accepted within five days before the last day for registration to vote in a regular election, the application shall be transmitted to the registrars of voters of the town of voting residence of the applicant not later than five days after the date of acceptance. The procedures in subsections (c), (d), (f) and (g) of section 9-23g which are not inconsistent with the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time, shall apply to applications made under this section. The commissioner is not an admitting official and may not restore, under the provisions of section 9-46a, electoral privileges of persons convicted of a felony.

10. General Statutes § 9-23g provides in pertinent part:

(a) In addition to the procedures for admission of electors under sections 9-19b, 9-19c, 9-19e, 9-20 and 9-31, any person may apply to a registrar of voters of the town of his residence for admission as an elector in accordance with the provisions of this section and section 9-23h.

(b) The Secretary of the State shall prescribe, and provide to registrars of voters, town clerks and voter registration agencies, as defined in section 9-23n, application forms and other materials necessary to complete such application and admission process. The Secretary of the State, registrars of voters and town clerks shall provide a reasonable number of such forms and materials to any elector who requests such forms and materials. The secretary shall also, in the course of the secretary's elections duties, prepare instructions and related materials describing procedures for such application and admission process and shall provide the materials to registrars of voters and town clerks. The application shall contain the information required under section 9-23h. All statements of the applicant shall be made under the penalties of perjury. The application for admission as an elector shall include a statement that (1) specifies each eligibility requirement, (2) contains an attestation that the application meets each such requirement, and (3) requires the signature of the applicant under penalty of perjury. Nothing in this section or section 9-23h shall require that the application be executed in the state. An applicant who is unable to write may cause the applicant's name to be signed on the application form by an authorized agent who shall, in the space provided for the signature, write the name of the applicant followed by the word "by" and the agent's own signature. The completed application may be mailed or returned in person to the office of the registrars of voters or the office of the town clerk of the applicant's town of residence or a voter registration agency. If the applicant

entrusts the applicant's application to another person or to such a voter registration agency for mailing or return to the registrars of voters, such person or agency shall immediately mail or return the application. Any such voter registration agency shall also provide the applicant with an application receipt, on which the agency shall record (A) the date that the agency received the application, using an official date stamp bearing the name of the agency, and (B) the party affiliation, if any, of the applicant. The agency shall provide such receipt whether the application was submitted in person or by mail. The town clerk shall promptly forward any application which the town clerk receives to the registrars of voters. Such application form shall be provided by or authorized by the Secretary of the State.

(c) Forthwith upon receipt of a registration application in the office of the registrars of voters, the registrar shall mark such date on the application and review the application to determine whether the applicant has properly completed it and is legally qualified to register. Forthwith upon completing his review, the registrar shall (1) indicate on the application whether the application has been accepted or rejected, (2) mail a notice to the applicant, (3) indicate on the application the date on which such notice is mailed, and (4) provide a copy of such notice to the other registrar. If the registrar determines that the applicant has not properly completed the application or is not legally qualified to register, the notice shall indicate that the application has been rejected and shall state the reason for rejection. If the registrar determines that the applicant has properly completed the application and is legally qualified to register, the notice shall indicate that the application has been accepted. A notice of acceptance or a notice of rejection shall be sent (A) within four days of receipt of an application during the period beginning on the forty-ninth day before an election and ending on the twenty-first day before such election, (B) on the day of receipt of an application if it is received (i) during the period beginning on the twentieth day before such election and ending on the fourteenth day before such election, (ii) during the period beginning on the thirteenth day before an election and ending on election day if the application has been received by the fourteenth day before an election by the Commissioner of Motor Vehicles or by a voter registration agency, (iii) during the period beginning on the twenty-first day before a primary and ending on the fifth day before a primary, or (iv) during the period beginning on the fourth day before a primary and ending at twelve o'clock noon on the last weekday before a primary, if the application has been postmarked by the fifth day before the primary and is received in the office of the registrars of voters during such period or if the application is received by the fifth day before a primary by the Commissioner of Motor Vehicles or by a voter registration agency, and (C) within ten days of receipt of an application at any other time. A notice of acceptance shall be sent by first-class mail with instructions on the envelope that it be returned if not deliverable at the address shown on the envelope. A notice of acceptance shall indicate the effective date of the applicant's registration and enrollment, the date of the next regularly scheduled election or primary in which the applicant shall be eligible to vote and the applicant's precinct and polling place. If a notice of acceptance of an application is returned undelivered, the registrars shall forthwith take the necessary action in accordance with section 9-35 or 9-43, notwithstanding the May first deadline in section 9-35. An applicant for admission as an elector pursuant to this section and section 9-23h may only be

admitted as an elector by a registrar of voters of the town of his residence. Not later than December thirty-first, annually, the Secretary of the State shall establish an official calendar of all deadlines set forth in this subsection for regularly scheduled elections and primaries to be held in the following calendar year.

(d) (1) Except as otherwise provided in this subsection, the privileges of an elector for any applicant for admission under this section and section 9-23h shall attach immediately upon approval by the registrar, and the registrars shall enter the name of the elector on the registry list.

(2) Except as provided in subdivision (3) of this subsection, if a mailed application is postmarked, or if a delivered application is received in the office of the registrars of voters, after the fourteenth day before an election or after the fifth day before a primary, the privileges of an elector shall not attach until the day after such election or primary, as the case may be. In such event, the registrars of voters may contact such applicant, either by telephone or mail, in order to inform such applicant of the effect of such late received mail-in application and any applicable deadline for applying for admission in person.

(3) If an application is received after the fourteenth day before an election or after the fifth day before a primary by the Commissioner of Motor Vehicles or by a voter registration agency, the privileges of an elector shall not attach until the day after the election or primary, as the case may be, or on the day the registrar approves it, whichever is later.

(4) If on the day of an election or primary, the name of an applicant does not appear on the official check list, such applicant may present to the moderator at the polls either a notice of acceptance received through the mail or an application receipt that was previously provided to the applicant pursuant to section 9-19e, subsection (b) of section 9-19h, subsection (b) of this section or section 9-23n. If an applicant presents said notice or receipt, and either the registrars of voters find the original application or the applicant submits a new application at the polls, the registrar, or assistant registrar upon notice to and approval by the registrar, shall add such person's name and address to the official check list on such day and the person shall be allowed to vote if otherwise eligible to vote and the person presents to the checkers at the polling place a preprinted form of identification pursuant to subparagraph (A) of subdivision (2) of subsection (a) of section 9-261.

(e) A registration application filed under this section shall be rejected if the application (1) has not been signed or dated by the applicant or the authorized agent of the applicant pursuant to subsection (b) of this section, (2) does not indicate the applicant's date of birth or bona fide residence, (3) does not indicate United States citizenship, provided the registrars of voters have contacted such applicant to provide an opportunity to answer such question, or (4) is determined by the Secretary of the State to be substantially defective. No registration application filed under this section shall be rejected if the application fails to provide the applicant's Social Security number or the zip code of the applicant's bona fide residence.

(f) Upon admission of an applicant under subsection (d) of this section, who indicated on his registration application that he changed residence since voting last in Connecticut, the registrar shall notify the registrar who accepted the voter's last registration, and the registrar in the voter's place of last residence, if different. Notification shall be made upon a form prescribed by the Secretary of the State. A registrar receiving such a notification shall delete the elector's name from the registry list.

(g) All provisions of the general statutes relating to electors, which are not inconsistent with the provisions of this section, shall apply to electors admitted under the provisions of this section.

(h) The Secretary of the State may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section and section 9-23h.

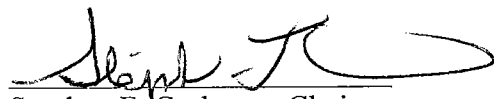
11. Although Chin indicates in his complaint that Sostre mailed in her voter registration application along with her license renewal, that procedure is not consistent with DMV protocols for license renewals.
12. All driver's license renewals require an in-person appearance at the DMV for the purpose of capturing the operator's image. License renewal materials are sent to operators with instructions to appear at a motor vehicle office. There is no mechanism for sending payments for an operator's license renewal through the mail.
13. The records of the DMV show that Sostre renewed her license in person in March 2007 at the Automobile Association of America (AAA) office in Waterford, not via the mail. The DMV indicated that, in renewing licenses, AAA is acting on behalf of the DMV, and is required to forward to the DMV, all voter registration applications that it collects.
14. In the instant case there is no evidence supporting the claims by Chin regarding Sostre. Although there is evidence that Sostre did renew her license in March 2007, she did not and could not renew her license via the mail as claimed in the complaint. Sostre did renew her license in person, but there is no evidence to support the claim that she mailed in her license renewal along with a voter registration application.
15. Furthermore, a review of the Connecticut Voter Registration System (CVRS) for Sostre in Montville revealed no voter registration information for Sostre and no voter history information for Sostre.
16. The Commission concludes that based on the facts and circumstances of this specific case, there is currently no evidence to support the claims made by Chin and as such, the Commission will take no further action in connection with this complaint.

ORDER

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

That the case be dismissed.

Adopted this 17th day of November, 2010 at Hartford, Connecticut.

A handwritten signature in black ink, appearing to read "Stephen F. Cashman", written over a horizontal line.

Stephen F. Cashman, Chairperson
By Order of the Commission