

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Marietta S. Lee, Madison

File No. 2010-011

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b and alleges that on January 26, 2010, at the polling place for the First Voting District in Madison, Mitchell A. Cohen (hereinafter the "Respondent"), an election official violated General Statutes § 9-236 when he advocated inside the polling place.

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

1. The Complainant alleges that he witnessed the Respondent, who was stationed just inside the polling place, conversing with a voter regarding the referendum question being voted on. According to the Complainant, the referendum was whether to appropriate \$9,000,000 for the acquisition of the Griswold Airport property. The Complainant maintains that he heard the Respondent say "If we don't get it now it will be gone forever" and "Let's hope we get it." The Complainant also alleges that he witnessed the Respondent shaking hands with several voters as they were leaving the polling place.
2. On August 10, 2010, the Respondent provided a written response to the Complainant's allegations. In that response, the Respondent admits "shaking hands with several of the citizens who came to vote on the referendum." He asserts, however, that he did so "as they were **LEAVING** the polls." (Emphasis in original.) The Respondent maintains that he was merely thanking those citizens for coming out to vote as, in past referendums, the voter turn-out had been low. The Respondent also admits that he did say "if we don't get it now, it will be gone forever." However, the Respondent asserts that the Complainant took that comment out of context. The Respondent asserts that after several voters had cast their votes, they asked him whether there would be a second referendum regarding the same issue and in responding, he made the aforementioned statement.
3. The Respondent asserts that "[a]t no time did [he] influence or express [his] personal opinion regarding the purchase of the airport while performing [his] duties as the Asst. Republican Registrar of Voters." He also maintains that he has "always conducted [himself] in a professional manner."
4. A diagram of the polling place indicates that the room in which voters cast their ballots was on the larger side, capable of holding 100 or more people. That polling place also had a separate entrance and room in which to check in and receive a ballot. After checking in, voters proceeded to the main voting room and cast their ballots in a privacy booth that was stationed across the room from the polling place exit. The exit

door was on the same side of the room and in close proximity to the Registrars table. The Commission has not been presented with any evidence to the contrary.

5. General Statutes § 9-236 (a) provides in relevant part as follows:

On the day of any . . . referendum . . . no person shall solicit in behalf of or in opposition to . . . any question being submitted at the . . . referendum . . . within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach

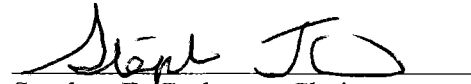
6. Here, the question for the Commission is whether any of the Respondent's statements constitute a solicitation in behalf of or in opposition to the question that was submitted at the referendum at issue. For the purposes of the aforementioned provision, the word "solicit" is not defined. As such, the Commission may look to the common meaning of that word for interpretive guidance. *See* General Statutes § 1-1 (a) (stating that "[i]n the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language.") The word "solicit" is commonly defined as follows: 1. To try to obtain by entreaty, persuasion, or formal application; and 2. To petition persistently. *Webster's New College Dictionary*, Third Edition, 2008.
7. Here, however, even if the Commission assumes without deciding that the Respondent did solicit in behalf of the question submitted at the referendum at issue, the Commission declines to take further action against the Respondent as he does not have a history of prior similar violations of General Statutes § 9-236, the evidence does not establish that he was aware that his comments may have qualified as a solicitation, those comments were made in an area of the polling place that was far removed from where voters checked in, received, marked, and cast ballots, and were made near the exit of the polling place in response to a question from voters that had already cast their vote and were leaving the polling place.
8. Nevertheless, the Commission *strongly advises* the Respondent to be mindful of the prohibitions set forth in General Statutes § 9-236, specifically those concerning solicitations in behalf of or in opposition to referendum questions within seventy-five feet of the polling place, in the future. The Commission also advises the Town of Madison's Registrars of Voters to ensure that the election officials they appoint understand and comply with those requirements.

ORDER

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

That no further action be taken.

Adopted this 26th day of January, 2011 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