

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Thomas J. Ryder, West Haven

File No. 2010-041

FINDINGS AND CONCLUSIONS

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b and alleges that his right to vote free of outside influence and right of free speech was violated when he was provided with a ballot for the 10th voting district that had an asterisk after the names of endorsed candidates in the March 2, 2010 Democratic Town Committee Primary in the City of West Haven.

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

1. The evidence establishes that an asterisk appeared on the official ballots for the 10th voting district below the name of each party-endorsed candidate for Democratic Town Committee member in the March 2, 2010 Democratic Town Committee Primary in the City of West Haven.
2. The Complainant maintains that nothing on the official ballot gave “meaning or purpose to that symbol.”
3. The evidence establishes, however, that the front side of the official ballots states the following in large print: “Study the instructions on the reverse side before completing this ballot.” Furthermore, on the reverse side of the ballot, a box appeared which states “Primary Voting Instructions.” The first instruction provided states that “[t]he name or names of party-endorsed candidates appear first in each vertical column **and the name of each party-endorsed candidates is marked with an asterisk.**” (Emphasis added.)
4. In addition, General Statutes § 9-437 expressly requires said asterisk. That provision provides as follows:

(a) At the top of each ballot label shall be printed the name of the party holding the primary, and each ballot label shall contain the names of all candidates to be voted upon at such primary, except the names of justices of the peace. The vertical columns shall be headed by the designation of the office or position and instructions as to the number for which an elector may vote for such office or position, in the same manner as a ballot label used in a regular election. The name of each candidate for town committee or municipal office, except for the municipal offices of state senator and state representative, shall appear on the ballot label as it appears on the registry list of such candidate's town of voting residence, except as provided in section 9-42a. The name of each candidate for state or district office or for the municipal offices of state senator or state representative shall appear on the ballot as it appears on the certificate or statement of consent filed under section 9-388, 9-391, 9-400 or 9-409. **On the first horizontal line, below the**

designation of the office or position in each column, shall be placed the name of the party-endorsed candidate for such office or position, such name to be marked with an asterisk; provided, where more than one person may be voted for for any office or position, the names of the party-endorsed candidates shall be arranged in alphabetical order from left to right under the appropriate office or position designation and shall continue, if necessary, from left to right on the next lower line or lines. In the case of no party endorsement there shall be inserted the designation "no party endorsement" at the head of the vertical column, immediately beneath the designation of the office or position. On the horizontal lines below the line for party-endorsed candidates shall be placed, in the appropriate columns, the names of all other candidates as hereinafter provided. [Emphasis added.]

5. The Commission therefore concludes that the asterisk that appeared on the official ballot at issue in this matter was placed there in accordance with the requirements of General Statutes § 9-437 and does not constitute a violation of any state election law or deprivation of the Complainant's rights as set forth in General Statutes § 9-236b (setting forth the Voter's Bill of Rights which includes the right to vote free from coercion by election officials).
6. The Complainant further alleges, however, that an election official informed him that the asterisk at issue identified the candidates that were "incumbents" rather than the party-endorsed candidates. The Complainant cannot, however, identify the name of that election official. The Complainant asserts that he cast his ballot based on that information and would have marked his ballot differently had he known that those candidates were the endorsed candidates.
7. The investigation has not revealed any evidence that the individual the Complainant alleges provided the wrong instructions did so purposely and/or knew the Complainant's voting preferences prior to giving him those instructions.
8. General Statutes § 9-363 provides as follows:

Any person who, **with intent to defraud any elector of his vote or cause any elector to lose his vote or any part thereof**, gives in any way . . . any improper, false, misleading or incorrect instructions or advice or suggestions as to the manner of voting on any machine, the following of which or any part of which would cause any elector to lose his vote or any part thereof, or would cause any elector to fail in whole or in part to register or record the same on the machine for the candidates of his choice, shall be fined not more than five hundred dollars or be imprisoned not more than five years or be both fined and imprisoned. [Emphasis added.]

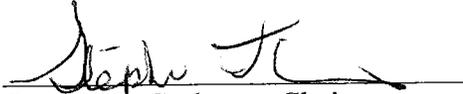
9. Here, even if the Commission could identify the election official at issue, the evidence is insufficient to establish that that election official made the statement alleged by the Complainant "with the intent to defraud" the Complainant of his vote or cause him to lose any part thereof. As such, the Commission cannot conclude that the actions of any individual in this matter fall within the scope of General Statutes § 9-363.

ORDER

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

That the matter be dismissed.

Adopted this 16th day of February, 2011 at Hartford, Connecticut.



Stephen F. Cashman, Chairperson
By Order of the Commission