

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Carol D. Walter, Clinton

File No. 2011-106

**AGREEMENT CONTAINING CONSENT ORDER AND
PAYMENT OF A CIVIL PENALTY FOR A VIOLATION OF
CONNECTICUT GENERAL STATUTES**

This Agreement, by and between Vincent A. Cimino, of the Town of Clinton, County of Middlesex, State of Connecticut, hereinafter referred to as "Respondent," 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. Complainant alleged that Respondent violated his oath as circulator by submitting Nominating Petitions for Municipal Office to the Clinton Town Clerk for him to appear on the ballot for First Selectman at the November 8, 2011 election in the Town of Clinton, when in fact he did not witness each signature on each petition page. Specifically, Complainant alleged that Respondent witnessed and knew that an individual had signed not only his own name but also that of his son on one of two petition pages submitted by Respondent to the Clinton Town Clerk.
2. The Respondent submitted petition pages that he had circulated in support of his candidacy for First Selectman, in the Town of Clinton, including a petition page bearing the purported signature of Christopher Apel.
3. That petition page contains the following *Circulator's Statement of Residency and Eligibility, and of Authenticity of Signatures* (hereinafter "Statement"):

I, circulator of this Nominating Petition Page, state under the penalties of false statement that my street address is as stated above, in the town specified; that I am a United States citizen at least 18 years of age, a resident of a town in this state and that I am not on parole for conviction of a felony; ***that each person whose name appears on this petition signatures page signed the same in person in my presence; and that I either know each such signer, or such signer satisfactorily identified himself or herself to me.***

[Emphasis added.]

4. The Statement, detailed in paragraph 3 above, was followed by the Respondent's signature, and signed by Respondent in the presence of acknowledging Officer Karen Marsden, Notary and Town Clerk of the Town of Clinton.
5. The signature of Christopher Apel is represented on the petition page signed by the Respondent, but is not Mr. Apel's legal signature and was in fact signed by Mr. Apel's father, Ray Apel, in the presence of the Respondent.
6. General Statutes § 9-453j, provides in pertinent part:

Each page of a nominating petition submitted to the town clerk or the Secretary of the State and filed with the Secretary of the State under the provisions of sections 9-453a to 9-453s, inclusive, or section 9-216 shall contain a statement as to the residency in this state and eligibility of the circulator and authenticity of the signatures thereon, signed under penalties of false statement, by the person who circulated the same. Such statement shall set forth (1) such circulator's residence address, including the town in this state in which such circulator is a resident, (2) the circulator's date of birth and that the circulator is at least eighteen years of age, (3) that the circulator is a United States citizen and not on parole for conviction of a felony, and (4) ***that each person whose name appears on such page signed the same in person in the presence of such circulator and that either the circulator knows each such signer or that the signer satisfactorily identified himself to the circulator.*** Any false statement committed with respect to such statement shall be deemed to have been committed in the town in which the petition was circulated.
[Emphasis added.]

7. General Statutes § 9-453j requires that each individual that circulates a petition must provide an attestation under the penalties of false statement that each person who signed that petition signed in the circulator's presence, and that each signatory was either known to the circulator or satisfactorily identified him or herself to the circulator.
8. A requirement of General Statutes § 9-453j is that the circulator's attestation be true. Accordingly, if the circulator signed a General Statutes § 9-453j petition statement that he or she knew or reasonably should have known was *untrue*, that circulator will be deemed to have violated General Statutes § 9-453j.

9. Accordingly, it is concluded that the Respondent knew or should have known that on that petition page purporting to bear the signature of Mr. Christopher Apel, when Respondent attested to the Statement of Authenticity of Signatures that "*each person whose name appears on this page signed the same in person in my presence,*" he did so falsely.
10. The Commission concludes therefore that Respondent's knowingly false Statement was incorrect as to the authentic of signatures and constitutes a violation of General Statutes § 9-453j.
11. The investigation determined that the Election Division of the Office of the Secretary of the State on September 16, 2011 disapproved the Respondent's nominating petitions (finding that he had submitted only 30 qualified signatures of the 32 needed to qualify for the ballot) and therefore did not qualify Respondent to appear on the ballot as candidate for First Selectman at the November 8, 2011 election in the Town of Clinton. This was so regardless of the signature which is subject of this complaint.
12. The Commission notes, that Respondent will not appear on the ballot, *not* because of the facts subject to the complaint, but rather because he failed to gather the requisite signatures as detailed in paragraph 11 above. Therefore, Commission notes, that Respondent was *not* disapproved for ballot status based on the Complainant's allegations regarding Respondent's false certification of petition page signatures.
13. Furthermore, the Commission notes, upon investigation, that there is contrary evidence as to whether, as asserted, Christopher Apel granted his father actual permission to sign his name on Respondent's petition. Nevertheless, the Commission finds the weight of evidence *is* sufficient to conclude that Respondent was informed of this supposed permission prior to witnessing the signature in question, and relied on such awareness when certifying his petition in the mistaken belief that it was permissible for a father to sign a Nominating Petition on behalf of his son.

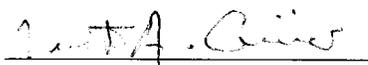
14. Furthermore, the investigation revealed that Respondent was new to the petition process, and informed the Town Clerk that he had not witnessed the signature made by a father for his son. Under these circumstances, where the circulator of Nominating Petitions for Municipal Office ultimately did not qualify for the ballot, mistakenly believed that a family member could sign for another with permission, and cooperated with the Commission investigation, while not excusing the Respondent's conduct, the Commission concludes that it diminishes the necessity to refer this matter to the Chief State's Attorney which is its prerogative under these circumstances, and therefore the Commission declines to do so.
15. 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.
16. 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.
17. 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.
18. 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 the requirements of Connecticut General Statutes § 9-453j.

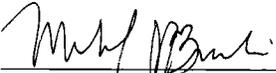
IT IS HEREBY FURTHER ORDERED THAT the Respondent shall pay a civil penalty of three hundred dollars (\$300.00) to the Commission. That penalty is hereby waived by the Commission based on exigent circumstances pertaining to Respondent.

The Respondent:



Vincent A. Cimino
161 East Main Street
Clinton, CT 06413

For the State of Connecticut:

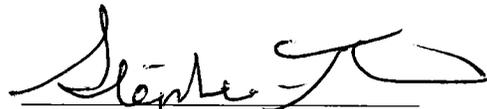
BY: 

Michael J. Brandi, Esq.
Executive Director and General Counsel
& Authorized Representative of the
State Elections Enforcement Commission
18-20 Trinity Street
Hartford, CT 06106

Dated: 5-2-12

Dated: 5/7/12

Adopted this 23 day of May of 2011 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission