

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

Complaint by Christopher Johnson, Canterbury

File No. 2011-112

**AGREEMENT CONTAINING CONSENT ORDER**

This Agreement, by and between Respondent Robert Noiseux, of the town of Canterbury, County of Windham, 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. "Canterbury First" was, at all times relevant to the instant complaint, a validly formed minor party in the town of Canterbury, qualified to nominate candidates for local offices in that town.
2. General Statutes § 9-452 prescribes the procedures that a minor party must follow to nominate candidates for elective office, and reads:

*All minor parties nominating candidates for any elective office shall make such nominations and certify and file a list of such nominations, as required by this section, not later than the sixty-second day prior to the day of the election at which such candidates are to be voted for. A list of nominees in printed or typewritten form shall be certified by the presiding officer of the committee, meeting or other authority making such nomination and shall be filed by such presiding officer with the Secretary of the State, in the case of state or district office or the municipal office of state representative, state senator or judge of probate, or *with the clerk of the municipality, in the case of municipal office, not later than the sixty-second day prior to the day of the election.* The clerk of such municipality shall promptly verify and correct the names on any such list filed with him, or the names of nominees forwarded to him by the Secretary of the State, in accordance with the registry list of such municipality and endorse the same as having been so verified and corrected. For purposes of this section, a list of nominations shall be deemed to be filed when it is received by the secretary or clerk, as appropriate. (Emphasis added.)*

3. General Statutes § 9-452a prescribes the notice requirements concerning minor party nominations, and reads:

*Not later than five days before a minor party holds a party meeting to nominate a candidate for public office, the presiding officer of such meeting shall give written*

*notice of the date, time, location and purpose of the meeting to, in the case of a municipal office, the town clerk of the municipality served by such office, or in the case of a state office or district office, the Secretary of the State. Concomitantly, the presiding officer of such meeting shall cause the written notice of such meeting to be published in a newspaper with a general circulation in the applicable town for such office. As used in this section, the terms "minor party", "state office", "district office" and "municipal office" have the meanings assigned to such terms in section 9-372. (Emphasis added.)*

4. On or about September 7, 2011, 62 days prior to the November 8, 2011 General Election, "Canterbury First," by its Chairman, Respondent Robert Noiseux, a list of endorsed candidates to the Canterbury town clerk. "Canterbury First" nominated candidates for the offices of First Selectman, Selectman, Town Treasurer, Board of Finance, Board of Finance Alternate, Board of Education, Board of Assessment Appeals, Planning and Zoning Alternate, Zoning Board of Appeals, Zoning Board of Appeals Alternate, Constable, and Library Board of Directors.
5. The Complainant in this matter alleges that the Respondent failed to file notice with the Canterbury town clerk of the party meeting of "Canterbury First," in violation of General Statutes § 9-452a.
6. After investigation, the Commission finds, and the Respondent does not deny, that no notice was filed with the Canterbury town clerk regarding a "Canterbury First" party meeting to select candidates.
7. Instead, Respondent asserts that no such party meeting was ever held and that the decision to endorse candidates was made over a period of days via various telephone calls and e-mails between interested individuals involved with the party and the candidates that they sought to nominate. As such, he asserts, "Canterbury First" was not required to follow the notice requirements of General Statutes § 9-452a.
8. Respondent's assertion presents the predicate question of whether General Statutes § 9-452a requires a minor party to hold a "party meeting" at a particular place and at a particular time. If the answer to that predicate question is no, then the question remains as to whether the notice requirements in General Statutes § 9-452a apply under the facts of this case. For the reasons set forth below, we need not get to the second question, as the first is answered in the affirmative.
9. The question of whether General Statutes § 9-452a requires a minor party to hold a "party meeting" at a particular place and at a particular time is one of first impression for the Commission. Moreover, the Commission found no written advice from the Secretary of the

State on this issue. As such, the Commission sought the formal written opinion of the Secretary of the State, in her role as Commissioner of Elections of the state, concerning the question of whether § 9-452a requires a “meeting” at a particular place at a particular time, such that the notice requirements must apply.

10. General Statutes § 9-3 reads:

The Secretary of the State, by virtue of the office, shall be the Commissioner of Elections of the state, with such powers and duties relating to the conduct of elections as are prescribed by law and, *unless otherwise provided by state statute, the secretary's regulations, declaratory rulings, instructions and opinions, if in written form, shall be presumed as correctly interpreting and effectuating the administration of elections and primaries under this title*, except for chapter 155, provided nothing in this section shall be construed to alter the right of appeal provided under the provisions of chapter 54.

11. In its opinion to the Commission dated October 4, 2011, the Secretary of the State’s office states:

We are writing in response to your recent inquiry of our office regarding the definition of the word “meeting” as contained in Section 9-452a of the Connecticut General Statutes. Since at least 1978, our office has consistently held that ***meetings of a political party to select candidates should be held at one time and one place.*** For example, our office has consistently interpreted the definition of “caucus” as contained in Section 9-372 of the Connecticut General Statutes<sup>1</sup> as meaning that it is a meeting held at one time and one place of enrolled party members. This interpretation is based on the words “at a designated hour and place” which appear in section 9-372[(1)].

This interpretation is substantiated by the different phraseology and definition of words in the same statutory section such as “primary” where the phrases “held during consecutive hours” and “without assembling at the same hour” appear. In such circumstances, we must conclude that the legislature intended that there be a distinction in the manner of holding caucuses and primaries in that primaries may be spread out over a period of time. Caucuses, on the other hand, are meetings where the members assemble at the same hour and place.

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<sup>1</sup> General Statutes § 9-372 (1) reads:

“Caucus” means any meeting, at a designated hour and place, or at designated hours and places, of the enrolled members of a political party within a municipality or political subdivision thereof for the purpose of selecting party-endorsed candidates for a primary to be held by such party or for the purpose of transacting other business of such party;

...  
Finally, we note that although the Connecticut General Statutes do impose a public notice requirement upon both major and minor parties with regarding to their caucuses and meetings respectively, *they do not similarly impose a penalty for failure to post such notice*. The state election laws instead appear to leave the dispute of such parties to the parties themselves. (Emphasis added.)

12. Accordingly, the Commission concludes that “Canterbury First” was required to hold a party meeting at a particular time and place to nominate candidates and could not obviate the notice requirement under General Statutes § 9-452a by failing to nominate their candidates in this manner.
13. Considering the aforesaid, the Commission concludes that Respondent, as Chairman of “Canterbury First,” violated General Statutes § 9-452a by failing to file notice with the Canterbury Town Clerk of a party meeting to nominate candidates.
14. However, the Commission also concludes that such failure was not a fatal defect to the placement of such nominees on the November 8, 2011 ballot in the Town of Canterbury. Where the legislature has intended that a statutory requirement be a necessary predicate to the placement of endorsed candidates on a ballot, it has done so explicitly. See, e.g., General Statutes § 9-388<sup>2</sup> and General Statutes § 9-391 (a).<sup>3</sup> No such explicit requirement

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<sup>2</sup> General Statutes § 9-388 reads, in pertinent part

Whenever a convention of a political party is held for the endorsement of candidates for nomination to state or district office, each candidate endorsed at such convention shall file with the Secretary of the State a certificate, signed by him, stating that he was endorsed by such convention . . . and shall be received by the Secretary of the State not later than four o'clock p.m. on the fourteenth day after the close of such convention. . . . *If a certificate of a party's endorsement for a particular state or district office is not received by the Secretary of the State by such time, such certificate shall be invalid and such party, for purposes of section 9-416 and section 9-416a shall be deemed to have made no endorsement of any candidate for such office. . . .* (Emphasis added.)

<sup>3</sup> General Statutes § 9-391 (a) reads:

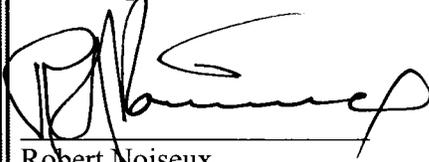
Each endorsement of a candidate to run in a primary for the nomination of candidates for municipal office to be voted upon at a municipal election, or for the election of town committee members shall be made under the provisions of section 9-390 not earlier than the fifty-sixth day or later than the forty-ninth day preceding the day of such primary. The endorsement shall be certified to the clerk of the municipality by either (1) the chairman or presiding officer, or (2) the secretary of the town committee, caucus or convention, as the case may be, not later than four o'clock p.m. on the forty-eighth day preceding the day of such primary. Such certification shall contain the name and street address of each person so endorsed, the title of the office or the position as committee member and the name or number of the political subdivision or district, if any, for which each such person is endorsed. *If such a certificate of a party's endorsement is not received by the town clerk by such time, such certificate shall be invalid and such party, for purposes of sections 9-417, 9-418 and 9-419, shall be deemed to have neither made nor certified such endorsement of any candidate for such office.* (Emphasis added.)

exists here. Moreover, as General Statutes § 9-7b gives the Commission no authority to levy a civil penalty for a violation of § 9-452a, we will take no further action in this matter.

**ORDER**

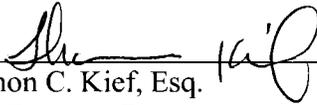
IT IS HEREBY ORDERED that Respondent Robert Noiseux will henceforth strictly comply with the requirements of Connecticut General Statutes § 9-452a.

**The Respondent:**

  
Robert Noiseux  
Canterbury, CT

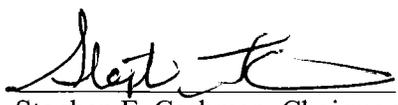
Dated: 11-15-11

**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: 12/14/11

Adopted this 14<sup>th</sup> day of December of 2011 at Hartford, Connecticut

  
Stephen F. Cashman, Chairman  
By Order of the Commission

**RECEIVED**  
**STATE ELECTIONS**

NOV 29 2011

**ENFORCEMENT COMMISSION**