

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Nancy Rossi, West Haven

File No. 2012-046

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to §9-7b, General Statutes, alleging that individuals failed to sign absentee ballot applications as assisters pertaining to the March 6, 2012 Democratic Primary in the City of West Haven as required by General Statutes § 9-140. After an investigation of this matter, the following findings and conclusions are made:

1. Complainant alleged that there were a number of suspect absentee ballot applications pertaining to the March 6, 2012 West Haven Democratic Primary that did not satisfy the requirements of General Statutes § 9-140 in that they were not signed by an assister.
2. Specifically, Complainant alleged that the top portion of each allegedly suspect applications were all completed by the same person, signed by individual applicants, but left blank in Section VII of the *Application for Absentee Ballot* (Form ED 3) where any assister must provide their signature printed name, telephone number and residence address. Complainant alleged that the Form ED 3 for each of the following individuals were incomplete:
 - a. Brandon Fanelli
 - b. Arnold Earp
 - c. Eleanor Earp
 - d. Dianna D'Angelico
 - e. Dominick D'Angelico
 - f. Anthony D'Angelico
 - g. John D'Angelico, Jr.
 - h. John D'Angelico, Sr.

3. General Statutes §9-140, provides in pertinent part:

(a) Application for an absentee ballot shall be made to the clerk of the municipality in which the applicant is eligible to vote or has applied for such eligibility. ***Any person who assists another person in the completion of an application shall, in the space provided, sign the application and print or type his name, residence address and telephone number. Such signature shall be made under the penalties of false statement in absentee balloting.*** The municipal

clerk shall not invalidate the application solely because it does not contain the name of a person who assisted the applicant in the completion of the application. ... ***The application shall be signed by the applicant under the penalties of false statement in absentee balloting*** on (1) the form prescribed by the Secretary of the State pursuant to section 9-139a, (2) a form provided by any federal department or agency if applicable pursuant to section 9-153a, or (3) any of the special forms of application prescribed pursuant to section 9-150c, 9-153a, 9-153b, 9-153d, 9-153e, 9-153f or 9-158d, if applicable. ...

[Emphasis added.]

4. Upon investigation, the Commission finds that Mr. Fanelli denies that anyone assisted him in completing his absentee ballot application for the March 6, 2012 Democratic Primary in West Haven. Furthermore, the Commission finds a lack of evidence to contradict this assertion or otherwise support Complainant's allegation that improprieties occurred regarding his use of an absentee ballot application. The Commission therefore dismisses the allegation that Mr. Fanelli violated General Statutes § 9-140.
5. The Commission finds that Dianna D'Angelico admits that she completed the top portion of absentee ballot applications for the March 6, 2012 Democratic Primary in West Haven, for her spouse John D'Angelico, Sr., as well as her three sons: Dominick D'Angelico, Anthony D'Angelico and John D'Angelico, Jr. Furthermore, Mrs. D'Angelico asserts that she was unaware that General Statutes § 9-140 requires individuals to sign as assister when they help others to complete any portion of an absentee ballot application, and the Commission finds no evidence to the contrary. Nevertheless, the Commission finds that Mrs. D'Angelico failed to sign as an assister on any of the five absentee ballot applications that she helped complete for her family members as required by General Statutes § 9-140.
6. Upon investigation, the Commission finds that ninety year old Eleanor Earp admits that she completed the top portion of absentee ballot application for the March 6, 2012 Democratic Primary in West Haven, for her spouse, ninety-two year old Arnold Earp. Furthermore, Mrs. Earp asserts that she was unaware that General Statutes § 9-140 requires individuals to sign as an assister when they help others to complete any portion of an absentee ballot application, and the Commission finds no evidence to the contrary. Nevertheless, the Commission finds that that Mrs. Earp failed to sign as an assister on her spouse's absentee ballot application that she helped complete as was required by § 9-140.

7. The Commission finds that each of the individuals, who received assistance with the completion of their absentee ballot application, as detailed herein, signed his own absentee ballot application. Furthermore, the Commission concludes that the plain language of General Statutes § 9-140 requires that: ***Any person who assists another person in the completion of an application shall, in the space provided, sign the application and print or type his name, residence address and telephone number.*** The Commission therefore strongly urges Mrs. D'Angelico and Mrs. Earp to review carefully in the future the Form ED 3 which delineates individual requirements for persons providing assistance to another in its completion. Furthermore, the Commission deems both Mrs. D'Angelico and Mrs. Earp on notice of the requirements of § 9-140 upon receipt of this order.
8. While there are analogous prior cases involving a parent/immediate family member completing an absentee ballot application on behalf of a spouse and/or child and failing to sign as an assister, these cases can be distinguished, in that each also entailed the Respondents *signing the name of their family member to the requisite absentee ballot application*, which did not occur under these facts. *See Complaint of Joyce P. Mascena*, File No. 2008-128 (Where a father completed absentee ballot applications for both his wife and son and signed on their behalf, but not as an assister); *Complaint of Aleeta Looker*, File No. 2008-125 (Where a mother completed an absentee ballot application for each of her sons and signed each on their behalf); *Complaint of Andrew Garfunkel*, Norwalk, File No. 2003-252 (Where a father, with authorization of his son, completed an absentee ballot application and signed it on his behalf but not as an assister).
9. Under these narrow and limited circumstances, where each individual who completed a portion of an absentee ballot application for an immediate family member and failed to sign as an assister as required by General Statutes § 9-140, but otherwise did not sign the absentee ballot application on behalf of the applicants, the Commission declines to take further action regarding these allegations and dismisses this complaint.

ORDER

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

The complaint is hereby dismissed.

Adopted this 19th day of December, 2012 at Hartford, Connecticut.


Stephen F. Cashman, Chairman
By Order of the Commission