

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint by Ralph Arena, Hartford

File No. 2012-048

FINDINGS AND CONCLUSIONS

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Hartford Democratic Registrar of Voters Olga Vasquez failed to correctly administer her duties concerning the processing of petitions for the March 6, 2012 Democratic Town Committee Primary in the City of Hartford.

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

1. On March 6, 2012 there was a primary held for positions on the Democratic Town Committee in the City of Hartford.
2. The Respondent here is Olga Vasquez, who at all times relevant to the instant Complaint was the Democratic Registrar of Voters in the City of Hartford.
3. The Complainant here makes multiple allegations against the Respondent, only three of which sufficiently plead facts over which the Commission has subject matter jurisdiction.
4. The first allegation concerns the question of the bona fide residence of town committee candidate Jose Contreras and is addressed in a separate matter, SEEC File No. 2012-030.
5. In his second allegation, the Complainant alleges that Marc DiBella submitted five petition pages to the Respondent on January 23, 2012, but that the Respondent did not validate and return those pages to the Hartford town clerk until March 6, 2012, the date of the town committee primary.
6. General Statutes § 9-412 reads, in pertinent part:

Upon the receipt of any page of a petition proposing a candidacy for a municipal office or for member of a town committee, the registrar shall forthwith sign and give to the person submitting the petition a receipt in duplicate, stating the number of pages filed and the date and time of filing and shall forthwith certify on each such page the number of signers on the page who were enrolled on the last-completed enrollment list of such party in the municipality or political subdivision, as the case may be, and shall

forthwith file such certified page in person or by mail, as described in section 9-140b, with the clerk of the municipality, together with the registrar's certificate as to the whole number of names on the last-completed enrollment list of such party in such municipality or political subdivision, as the case may be, *within seven days after receipt of the page. . . .* (Emphasis added.)

7. In support of his allegation, the Complainant included a cover page from the Respondent to Town Clerk John V. Bazzano accompanying the validated five pages. This cover page, written on the Hartford Registrars' Office's letterhead, is dated March 6, 2012 and certifies that she verified the signatures on the five pages of petitions. Also included on the cover page is an accounting of the ballot status of the slate of candidates supported by the petition. The five pages included 80 validated signatures, leaving the slate only 4 signatures short of the total 277 necessary to qualify for ballot status on the date the signatures were submitted, January 23, 2012.
8. In affidavits filed pursuant to the instant Complaint, the Respondent denies that the petition pages were certified to the Town Clerk on March 6, 2013, the date of the primary. She asserts that the date on the form does not indicate the date on which they were certified, but rather refers to the date of the primary for which the pages were submitted. She asserts that the pages were certified to the town clerk long before that time. Otherwise, the primary never would have occurred as the town clerk would not have known if the challenge slate had a sufficient number of signatures to qualify for the ballot.
9. In her affidavit, the Respondent admits that she does not know for certain exactly which date the petitions were submitted and cannot state with certainty that they were submitted to the town clerk within the 7 day period. However, she provided copies of the petition pages in support of her assertion that she did her verification work. The Respondent's certification on the petition pages indicates that she certified the pages on January 30, 2012, exactly 7 days after the pages were submitted and within the statutory period.
10. Unfortunately, the petition pages lack any type of indication from either the Respondent's office or the town clerk's office as to when they were received. It does not appear to be the practice of the town clerk to time-stamp the receipt of these pages. Moreover, the investigation was unable to uncover any further evidence as to when these pages were received by the town clerk's office.
11. The Hartford Town Clerk should, in the future, endeavor to keep better track of when its records are received, especially those records, such as here, for which a filing deadline applies.

12. However, considering the aforesaid, the Commission concludes that the evidence is insufficient to establish that the Respondent violated General Statutes § 9-412 by remitting primary petition pages to the Hartford Town Clerk on the day of the primary. The allegation should be dismissed.
13. Turning to the Complainant's second allegation, he alleges that the Respondent failed to follow General Statutes § 9-409 concerning the statement of consent that a candidate must sign before petition pages are issued.
14. General Statutes § 9-409 reads:

Petition forms for candidacies for nomination to municipal office or for election as members of town committees shall be available from the registrar beginning on the day following the making of the party's endorsement of a candidate or candidates for such office or position, or beginning on the day following the final day for the making of such endorsement under the provisions of section 9-391, whichever comes first. Any person who requests a petition form shall give his name and address and the name, address and office or position sought of each candidate for whom the petition is being obtained, and shall file a statement signed by each such candidate that he consents to be a candidate for such office or position. In the case of the municipal offices of state senator and state representative, each such candidate shall include on the statement of consent his name as he authorizes it to appear on the ballot. Upon receiving such information and statement, the registrar shall type or print on a petition form the name and address of each such candidate, the office sought and the political party holding the primary. The registrar shall give to any person requesting such form one or more petition pages, suitable for duplication, as the registrar deems necessary. If the person is requesting the form on behalf of an indigent candidate or a group of indigent candidates listed on the same petition, the registrar shall give the person a number of petition pages determined by the registrar as at least two times the number needed to contain the required number of signatures for a candidacy for nomination to municipal office or a number of petition pages determined by the registrar as at least five times the number needed to contain the required number of signatures for a candidacy for election as a town committee member. An original petition page filled in by the registrar may be duplicated by or on behalf of the candidate or candidates listed on the page and signatures may be obtained on such duplicates. The duplicates may be filed in the same manner and shall be subject to the same requirements as original petition pages. All information relative to primary petitions shall be a public record.

15. General Statutes § 9-411 reads:

Any provision of law to the contrary notwithstanding, no primary petition for town committee members shall be approved unless it contains the names of a number of candidates, other than party-endorsed candidates, equal in number to at least twenty-five per cent of the number of town committee members to be elected in the town or political subdivision, as the case may be.

16. Here, a challenge slate of candidates for the March 6, 2012 town committee election submitted to the registrar a statement signed by each candidate that such candidate consents to be a candidate for a town committee primary. The statement contained a number of town committee candidates sufficient to exceed for the 25% threshold under General Statutes § 9-411. The Respondent followed the prescriptions of General Statutes § 9-409 and typed a petition containing the names and addresses of each of the candidates and remitted it to the candidates.
17. Subsequent to the events described above, but before such slate of candidates sought petitions signatures, the slate discovered that one of the candidates did not live in the district for which she had been submitted as a candidate. As such, a replacement candidate was recruited.
18. A new statement was submitted to the Respondent, which contained only the name, address and signature of the new candidate and the Respondent received oral instructions to re-type the petitions with the new candidate's name replacing the ineligible candidate's name.
19. The Respondent typed up a new petition page containing the names and addresses of all of the candidates that signed the original statement, substituting the name and addresses of the new candidate for the candidate who lived out of district.
20. The Complainant here alleges that General Statutes § 9-409 required the Respondent in this instance to reject the candidate certification for failing to meet the 25% threshold under General Statutes § 9-411; he alleges that the challenge slate was required to re-file a new candidate certification containing *all* of the names, addresses and signatures of the slate.
21. The Respondent disputes that she was required to do this and that accepting the single page was sufficient in meeting her obligations under General Statutes §§ 9-409 & 9-411.
22. The question here 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 per General Statutes § 9-3.

23. 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.

24. In its opinion to the Commission dated January 18, 2013, the Secretary of the State's office stated, in pertinent part:

[General Statutes § 9-409] requires that the individual requesting petitions "file a statement signed by each such candidate that he consents to be a candidate for such office or position." The statute does not specifically state that such consent must be made on a single sheet, nor does it prescribe a form upon which such consent is to be made. We find the absence of such language instructive. If the statute were to require that all candidates sign a statement of consent on the same form, then no change could be made to the candidates without all candidates signing a second statement of consent, including those candidates who already signed their consent on the original filing. Further, if multiple changes were made, such a reading would require each candidate to sign an untold number of statements. In essence, this would require such candidates to reaffirm their consent to become a candidate. A situation whereby an individual was required to reaffirm their desire to become a candidate would be unusual at the very least. Under ordinary circumstances, once an individual has filed to become a candidate, there is a presumption that such individual wishes to remain a candidate unless a proper withdrawal has been filed. In fact, we have been unable to find any other instance in Title 9 where an individual is required to reaffirm their interest in serving as a candidate. Finally, we do not see any public purpose that would be served by such a reading. The individuals involved have signed statements consenting to become candidates and have provided all requisite information, second, third or fourth statements do not provide additional assistance. Of course, if an individual wishes to withdraw as a candidate and cease involvement in the petition, such a withdrawal is easily made. Consequently, after a review of the

plain language of Connecticut General Statutes § 9-409, we find no requirement that all petition candidates sign the same consent sheet.

25. Considering the aforesaid, the Commission concludes that the Respondent did not violate General Statutes § 9-409 by allowing the slate of candidates to replace one of its members using a candidate certification sheet signed by only the new candidate rather than having the entire slate of candidates sign a new form. This allegation should be dismissed.

ORDER

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

That the matter is dismissed.

Adopted this 17th day of April, 2013 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission