

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Christine Halfar, Danbury

File No. 2012-086

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Mary Ann Doran and Margaret Gallo, of the City of Danbury, County of Fairfield, 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. The Respondents, Ms. Gallo and Ms. Doran are, respectively, the Democratic and Republican Registrars of Voters for the City of Danbury.
2. The Complainant, who was a poll worker during the November 8, 2011 municipal election in Danbury, alleges that the training materials given to poll workers by the Respondents during their trainings in October were incomplete. Moreover, she alleges that the materials given to poll workers identifies certain types of acceptable voter identification, but fails to inform the poll workers that such is not an exhaustive list, thus negligently training the poll workers to believe that such are the only acceptable forms. Additionally, the Complainant alleges that on the Danbury ROV website, there is a link labeled "Identification Requirements" that brings voters to a document on the website of the Secretary of the State that lists only the voter identification requirements for certain voters under the Help America Vote Act of 2002 ("HAVA").
3. Relevant to this complaint, the Complainant included in her complaint copies of materials handed out by the Respondents to their trainees. One of the documents includes a clear statement that reads:

ACCEPTABLE FORMS OF ID

A current and valid photo identification that shows the name and address or a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address.

4. Registrars are responsible for training poll workers. General Statutes § 9-249 reads, in pertinent part:

(a) Before each election, the registrars of voters, certified moderator and certified mechanic shall instruct the election officials. Any provision of the general statutes or of any special act to the contrary notwithstanding, election officials shall be appointed at least twenty days before the election except as provided in section 9-229. The registrars, certified moderator and certified mechanic shall instruct each election official who is to serve in a voting district in which a voting machine is to be used in the use of the machine and his duties in connection therewith, and for the purpose of giving such instruction, such instructors shall call such meeting or meetings of the election officials as are necessary. Such instructors shall, without delay, file a report in the office of the municipal clerk and with the Secretary of the State, (1) stating that they have instructed the election officials named in the report and the time and place where such instruction was given, and (2) containing a signed statement from each such election official acknowledging that the official has received such instruction. (Emphasis added.)

5. The voter identification requirements in Connecticut are enumerated in General Statutes § 9-261, which reads, in pertinent part:

(a) In each primary, election or referendum, when an elector has entered the polling place, the elector shall announce the elector's street address, if any, and the elector's name to the official checkers in a tone sufficiently loud and clear as to enable all the election officials present to hear the same. Each elector who registered to vote by mail for the first time on or after January 1, 2003, and has a "mark" next to the elector's name on the official registry list, as required by section 9-23r, shall present to the official checkers, before the elector votes, either a current and valid photo identification that shows the elector's name and address or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the elector. Each other elector shall (1) present to the official checkers the elector's Social Security card or any other preprinted form of identification which shows the elector's name and either the elector's address, signature or photograph, or (2) on a form prescribed by the Secretary of the State, write the elector's residential address and date of birth, print the elector's name and sign

a statement under penalty of false statement that the elector is the elector whose name appears on the official checklist. Such form shall clearly state the penalty of false statement. A separate such form shall be used for each elector. If the elector presents a preprinted form of identification under subdivision (1) of this subsection, the official checkers shall check the name of such elector on the official checklist. If the elector completes the form under subdivision (2) of this subsection, the registrar of voters or the assistant registrar of voters, as the case may be, shall examine the information on such form and either instruct the official checkers to check the name of such elector on the official checklist or notify the elector that the form is incomplete or inaccurate. (Emphasis added.)

6. After passage of the federal Help America Vote Act of 2002, § 9-261 (a) was amended, effective January 1, 2003, to accommodate two separate voter identification schemes—the original scheme and a new requirement associated with mail-in registrants voting for the first time during a federal election who had not previously produced identification.
7. The Moderator’s Handbook and the Connecticut Poll Worker Manual, both published by the Secretary of the State, distill the statute to the following decision tree, illustrated below:

<p>(A) <u>First time voters</u> who:</p> <ol style="list-style-type: none"> a. registered by mail after 1/1/2003, <u>and</u> b. are voting for the first time in an primary/election with <i>federal candidates on the ballot</i> <u>and</u> c. have a “mark” next to their name on the official registry list: 	<p>(B) <u>All other voters</u> (THIS INCLUDES MOST VOTERS)</p>
<ul style="list-style-type: none"> • Voter must present: <ul style="list-style-type: none"> ○ A copy of a current and valid photo identification that shows voter’s name and address; <u>or</u> ○ A copy of a current utility bill, bank statement, government check, paycheck or government document that shows voter’s name and address; <p style="text-align: center;"><u>Or</u></p> • Cast a provisional ballot 	<ul style="list-style-type: none"> • Voter must present: <ul style="list-style-type: none"> ○ A social security card, <u>or</u> ○ Any preprinted form of identification that shows voter’s: <ul style="list-style-type: none"> ▪ name and address, <u>or</u> ▪ name and signature, <u>or</u> ▪ name and photograph <p style="text-align: center;"><u>Or</u></p> • Sign a statement under penalty of false statement on Form ED-681 entitled, “Signatures of Electors Who Did Not Present ID,” provided by the Secretary of the State that the elector whose name appears on the official check list is the same person who is signing the form.

8. The Respondents in this matter assert that it was their understanding that they were accurately training all poll workers on all requirements of the law and giving them the appropriate materials concerning what is an acceptable form of identification. They go on to assert that while they may not agree with the voter identification laws in Connecticut, they enforce them. Finally, they assert that it is the practice to train the poll workers that if someone does not have identification, they are instructed to go to the Moderator who will instruct them about the provisional ballot.
9. The Respondents further assert that their PowerPoint presentation to poll workers does include the full voter identification rules. However, while they provided sufficient evidence in support of this assertion, they also admit that the slide was “copied and pasted” from the Connecticut Poll Worker Manual and was not necessarily expounded upon during the presentations themselves. Moreover, they also concede that while printed copies of the PowerPoint presentation were distributed at their poll worker trainings, they were collected at the end. The only materials on voter identification that were distributed for the poll workers contain only the statement illustrated in ¶3 *supra*.
10. Here, the Commission finds that the evidence shows that while the Respondents did include the complete voter identification rules in their PowerPoint slides, the other evidence—including their admission that the slide was merely “copied and pasted” from the Connecticut Poll Worker Manual, the materials provided by the Respondents to their poll workers, the links on their website, and their responses to the Complaint—shows that the Respondents were largely limiting their training of the voter identification requirements to the HAVA identification requirements.
11. The HAVA requirements are stricter than the requirements for other voters, require voters to provide identification showing the voter’s address and do not have allowances for voters who lack identification to vote a full ballot.¹
12. It is an issue of first impression for the Commission as to whether General Statutes § 9-249 (a) is violated when registrars hold training sessions for their poll workers, but fail to *adequately* train said workers on a portion of their duties and/or a legal requirement under the law.
13. “When construing a statute, [the] fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case, including the question of whether the language actually does apply. . . . In seeking to determine that meaning, General Statutes § 1-2z directs us first to consider the text of the

¹ Provisional ballots include only federal candidates.

statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered. . . .” State v. Tabone, 292 Conn. 417, 431-32 (2009).

14. General Statutes § 9-249 (a) requires that registrars “instruct each election official who is to serve in a voting district in which a voting machine is to be used in the use of the machine and his duties in connection therewith. . . .” (Emphasis added.) The Commission concludes that the phrase “duties in connection therewith” plainly and unambiguously contemplates that registrars must instruct poll workers on all of the duties required of them. As such, the Commission concludes that a failure to adequately and/or completely train a poll worker on all of their duties is a violation of General Statutes § 9-249.
15. Here, poll workers trained under these Respondents were not trained on their duties at the polling place, insofar as they were not trained on all of their duties. An official checker’s primary duty is to check the registration and/or enrollment status of a voter and review such voter’s proof of identity. If such voter fails to provide identification and is eligible to fill out the “Signatures of Electors Who Did Not Present ID,” it is the official checker’s duty to retrieve either the registrar or the assistant registrar to complete the process. *See, generally*, General Statutes § 9-261 (a).
16. However, under the Respondents’ training, poll workers were largely trained to accept only certain specific types of identification to the exclusion of other types of identification which would have been otherwise acceptable. Moreover, they were insufficiently trained about the opportunity of non-HAVA voters to fill out the statement in lieu of identification enumerated in § 9-261 (a) (2).
17. Considering the aforesaid, the Commission finds that the Respondents here have failed to adequately train their poll workers on the voter identification rules. As such, the Commission concludes that the Respondents violated General Statutes § 9-249.
18. In conclusion, Connecticut General Statutes § 9-7b (a) (2) provides that the Commission may assess a civil penalty of two thousand dollars per offense against any town clerk, registrar of voters, an appointee or designee of a town clerk or registrar of voters, or any other election or primary official whom the Commission finds to have failed to discharge a duty imposed by any provision of chapter 146 or 147. Pursuant to Regulations of Connecticut State Agencies §9-7b-48, in determining the amount of a civil penalty, the Commission shall consider, among other mitigating and aggravating factors:

- (1) the gravity of the act or omission;
- (2) the amount necessary to insure immediate and continued compliance;
- (3) the previous history of similar acts or omissions; and
- (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.

19. The Commission finds that the voter identification requirements are clearly illustrated in both the Moderator's Handbook and the Poll Worker's Manual.
20. The Commission takes notice that Respondent Gallo has been a registrar in Danbury since approximately 1998 and Respondent Doran has been a registrar in Danbury since approximately 2004.
21. However, the Commission also takes notice that neither Respondent has any prior matters before the Commission.
22. Finally, the Commission takes notice that there is no evidence that any specific voter was turned away from a Danbury polling place during the November 8, 2011 General Election.
23. Here, the Respondent Registrars have failed to properly train their poll workers on the voter identification requirements. The Respondents actions and omissions could have resulted in disenfranchisement of voters who could not meet the heightened identification requirements taught by the Respondents. While the evidence does not suggest any specific instances of disenfranchisement, such negligence made it possible that certain voters simply did not show up because of artificially heightened identification requirements.
24. In consideration of the aforesaid, the Commission concludes that the specific facts of this matter warrant a civil penalty of \$200 for each Respondent.
25. However, the Commission agrees to waive the aforementioned civil penalty provided the Respondents do the following:
 - a. Attend a full moderator training session within one year of the November 4, 2012 General Election and provide proof of successful completion of said training by furnishing to the Commission a signed affirmation from the instructor;
 - b. Furnish a copy of the "Voter ID requirements" page of the most recent "Training Guide for Connecticut Poll Workers" published by the Secretary of the State to every poll worker attending training prior to the November 4, 2012 General Election;
 - c. Print and laminate a single-page document in no less than 12-point typeface containing an accurate explanation of all of the voter ID requirements in General

Statutes § 9-261 and have a copy of such page present and fully visible to the official checkers at the official checkers table during all hours of voting at all polling places in Danbury and provide proof no more than 30 days after Election Day that the above condition was satisfied at each polling place by furnishing to the Commission a signed affirmation from the moderator at each polling place; and

- d. Print and laminate a single-page document in no less than 12-point typeface containing an accurate explanation of all of the voter ID requirements in General Statutes § 9-261. Such explanation will be both in English and in Spanish. During all hours of voting at all polling places in Danbury, a copy of such page will be present and fully visible to electors at the official checkers table at the point on the table at which the elector is asked to provide identification and provide proof no more than 30 days after Election Day that the above condition was satisfied at each polling place by furnishing to the Commission a signed affirmation from the moderator at each polling place.
26. The Respondents agree that if either of the Respondents fails to meet the above conditions for waiver, both Respondents shall be responsible for the aforementioned civil penalty.
 27. 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. Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
 28. The Respondents waive:
 - 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.
 29. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if the same becomes necessary.
 30. Upon the Respondents' compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings pertaining to this matter.

ORDER

IT IS ORDERED THAT that both Respondents will henceforth strictly comply with the requirements of General Statutes §§ 9-249 and 9-261.

IT IS FURTHER ORDERED THAT that both Respondents will pay a civil penalty of \$200 each, unless both Respondents do the following:

- a. Attend a full moderator training session within one year of the November 4, 2012 General Election and provide proof of successful completion of said training by furnishing to the Commission a signed affirmation from the instructor;
- b. Furnish a copy of the "Voter ID requirements" page of the most recent "Training Guide for Connecticut Poll Workers" published by the Secretary of the State to every poll worker attending training prior to the November 4, 2012 General Election;
- c. Print and laminate a single-page document in no less than 12-point typeface containing an accurate explanation of all of the voter ID requirements in General Statutes § 9-261 and have a copy of such page present and fully visible to the official checkers at the official checkers table during all hours of voting at all polling places in Danbury and provide proof no more than one month after Election Day that the above condition was satisfied at each polling place by furnishing to the Commission a signed affirmation from the moderator at each polling place;
and
- d. Print and laminate a single-page document in no less than 12-point typeface containing an accurate explanation of all of the voter ID requirements in General Statutes § 9-261. Such explanation will be both in English and in Spanish. During all hours of voting at all polling places in Danbury, a copy of such page will be present and fully visible to electors at the official checkers table at the point on the table at which the elector is asked to provide identification and provide proof no more than one month after Election Day that the above condition was satisfied at each polling place by furnishing to the Commission a signed affirmation from the moderator at each polling place. The moderator affirmations in paragraphs (c) and (d) may be combined into a single affirmation per moderator.

The Respondents:



Marc Ann Doran, Registrar of Voters
City of Danbury
155 Deer Hill Ave.
Danbury, CT 06810

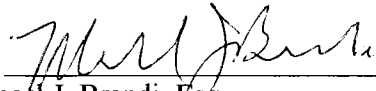
Dated: 10-23-12



Margaret Gallo, Registrar of Voters
City of Danbury
155 Deer Hill Ave.
Danbury, CT 06810

Dated: 10-23-12

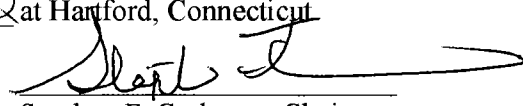
For the State of Connecticut:

BY: 

Michael J. Brandi, Esq.
Executive Director & General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT

Dated: 10/30/12

Adopted this 24th day of October of 2012 at Hartford, Connecticut



Stephen F. Cashman, Chair
By Order of the Commission