

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

Referral of Wilton Town Clerk and Registrars of Voters

File No. 2012-168

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between John F. Hartner, of the Town of Wilton, 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. This matter comes by way of a referral from Bettye J. Ragnonetti, Carole Young-Kleinfeld, and Tina Gardner, respectively, and at all relevant times, the Town Clerk and Registrars of Voters for the Town of Wilton.
2. The Referring Officials allege that on or about September 5, 2012, Respondent John F. Hartner delivered three absentee ballot applications to the Town Clerk, one each for Mr. Hartner, his daughter, and his son Kyle Hartner.
3. In reviewing the absentee ballot applications, the Referring Officials became concerned that the signature for Kyle Hartner did not appear to be his own.
4. After comparing the signature on Kyle Hartner's application to his registration card, the Referring Officials determined that the signatures were not the same, that the application was not valid and therefore that they could not process the application.
5. After making the aforementioned determinations, the Referring Officials left a voice message with the Respondent advising him that there was a discrepancy in Kyle's application and that they would not be processing it.
6. On or about October 16, 2012, the Town Clerk spoke with the Respondent after he inquired after his son's absentee ballot application and again explained that it was not processed after the aforementioned determination.
7. On or about October 16, 2012, but subsequent to the above telephone exchange with the Respondent, Kyle Hartner appeared in person at the Town Clerk's office, filled out an absentee ballot application and executed a ballot contemporaneously in the Town Clerk's office.

8. The signature on the second Kyle Hartner application matches the signature on his registration card, but is distinctly different from the signature on the first Kyle Hartner application.
9. While it is permissible for another individual to assist a voter in filling out her absentee ballot application, the assister must identify herself. Moreover, only the applicant may sign the application for an absentee ballot application; the permission of the applicant does not suffice. General Statutes § 9-140, reads 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 application shall be signed by the applicant under penalties of false statement in absentee balloting. . . .* (Emphasis added.)

10. Here, by assisting his son in the completion of his application without identifying himself as an assister and by signing on his son's behalf, the Respondent violated General Statutes § 9-140 (a).
11. In response to the instant referral, the Respondent admitted to taking an act that constituted falsifying another person's signature on a form requesting an absentee ballot. However, he maintained that his efforts on behalf of his son were motivated by altruism, not fraud. Moreover, he asserted that he filled out the absentee ballot and signed it with his son's explicit permission. He stated, in full:

As this was the first US Presidential election that my children were of age to participate in, we spent a good amount of time talking about the election, watching debates and getting ready to vote. My two children were going to be at University and I was traveling for the Election Day, so we wanted to get absentee ballot applications in before the kids went to school. Unfortunately my son Kyle forgot to complete and sign the application before he left for school. I realized this when I was dropping off the applications and did not [want] to miss this chance for him to vote and, getting his OK, I completed and signed the document on his behalf but neglected to sign section VII which indicated my assistance in signing the document which was wrong. This signature discrepancy was noted by the Wilton town office and

they called to clarify. In the end my son was able to come home for a long weekend and go in person to the town hall and complete the absentee ballot in person. I regret the fact that my desire for my children to vote in their first Presidential election caused me to complete the form on his behalf and not complete section VII. Also I want to reconfirm that he went in person to vote his absentee ballot and can assure you there was no intent to influence his vote. I apologize for any trouble this may have caused you or the Wilton town office. . . .

12. Connecticut General Statutes § 9-7b (a) (2) provides that the Commission may assess a civil penalty of two thousand dollars per offense against any person the commission finds to be in violation of any provision of chapter 145, part V of chapter 146, part I of chapter 147, chapter 148, section 7-9, section 9-12, subsection (a) of section 9-17, section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h, 9-23j to 9-23o, inclusive, 9-23r, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a, 9-42, 9-43, 9-50a, 9-56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-232i to 9-232o, inclusive, 9-404a to 9-404c, inclusive, 9-409, 9-410, 9-412, 9-436, 9-436a, 9-453e to 9-453h, inclusive, 9-453k or 9-453o,. 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.

13. Here, the Respondent admits to taking an act that constituted falsifying another person's signature on a form requesting an absentee ballot. Objectively, this is a serious offense; many of the important protections of the polling place are not present in the natural course of the absentee ballot process, leaving it exposed to greater opportunities for fraud.

14. However while there appears here to be no question that the Respondent was careless in reviewing the form that he was filling out and signing on his son's behalf, there does not appear to have been any fraudulent intent on behalf of either he or his son. This was the first presidential election in which his son was eligible to vote and he did not want him to miss the opportunity.

15. The Respondent maintains that his efforts on behalf of his son were motivated by altruism, not fraud. The Respondent wanted his son to exercise his right, but behaved rashly in his efforts to help him do so.

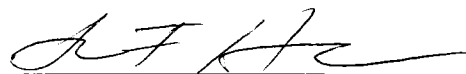
16. It should also be noted that the vetting process of absentee ballot applications, required by law and successfully implemented by the Town Clerk and Registrar of Voters worked as it should have in this case. They were vigilant in their review of the absentee ballots; only one absentee ballot was issued and only one vote was ultimately cast.
17. 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.
18. 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.
19. 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.
20. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings pertaining to this matter.

ORDER

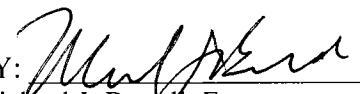
IT IS ORDERED THAT:

- a. The Respondent will henceforth strictly comply with General Statutes § 9-140; and
- b. The Respondent will pay a civil penalty of \$200.

The Respondent:


John F. Hartner
Wilton, CT

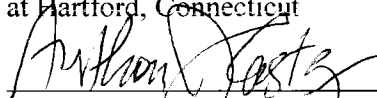
For the State of Connecticut:

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: 5-8-2013

Dated: 5/15/13

Adopted this 19 day of June of 20 13 at Hartford, Connecticut


Anthony J. Castagno, Chair
By Order of the Commission

RECEIVED
STATE ELECTIONS

MAY 15 2013

ENFORCEMENT COMMISSION