

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Referral of Carole Young-Kleinfeld, Democratic Registrar of Voters, Wilton File No. 2012-170

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Iris M. Farmer, 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. The Referring official, Carole Young-Kleinfeld, alleges that Iris Farmer cast an absentee ballot for the November 5, 2012 election claiming she would be out of town during all hours of voting on Election Day. She then voted at her designated polling place on the day of the election.
2. General Statutes § 9-135 reads, in pertinent part:

(a) Any elector eligible to vote at a primary or an election and any person eligible to vote at a referendum may vote by absentee ballot if he is unable to appear at his polling place during the hours of voting for any of the following reasons: (1) His active service with the armed forces of the United States; (2) his absence from the town of his voting residence during all of the hours of voting; (3) his illness; (4) his physical disability; (5) the tenets of his religion forbid secular activity on the day of the primary, election or referendum; or (6) the required performance of his duties as a primary, election or referendum official at a polling place other than his own during all of the hours of voting at such primary, election or referendum. [Emphasis added.]

3. General Statutes § 9-159o reads, in pertinent part:

Any elector who has returned an absentee ballot to the clerk and who finds he is able to vote in person shall proceed before ten o'clock a.m. on election, primary or referendum day to the municipal clerk's office and request that his ballot be withdrawn. The municipal clerk shall remove the ballot from the sealed package and shall mark the serially-

numbered outer envelope, which shall remain unopened, "rejected" and note the reasons for rejection. The elector shall also endorse the envelope. The rejected ballot shall then be returned to the sealed package until delivered on election, primary or referendum day to the registrars of voters in accordance with section 9-140c. The clerk shall then give the elector a signed statement directed to the moderator of the voting district in which the elector resides stating that the elector has withdrawn his absentee ballot and may vote in person. Upon delivery of the statement by the elector to the moderator, the moderator shall cause the absentee indication next to the name of the elector to be stricken from the official checklist and the elector may then have his name checked and vote in person... [Emphasis added.]

4. The Respondent submitted an absentee ballot application in person at the Wilton Town Hall on November 5, 2012 (the day before the election on November 6, 2012) at 2:45pm. The application indicated that she would be absent from the town during all hours of voting. She also cast her absentee ballot in person at town hall at that time.
5. When the Respondent cast her ballot, the official voter lists had already been sent to the polling places. As such, the official voter lists did not have her marked as voting absentee when the polls opened the morning of November 6, 2012.
6. Early on the morning of the election, the Respondent went to her designated polling place and cast a ballot. At 10:00 a.m., the registrar of voters office called the District One polling place to update the official voter list with the names of those voters who had cast absentee ballots since the lists had been sent to the polling places. The Respondent was recorded as having voted that morning, as well as having cast an absentee ballot. The moderators alerted the registrars who, on the advice of the Office of the Secretary of the State, withheld the Respondent's absentee ballot. As such, only the Respondent's in-person ballot was counted.
7. The Respondent here asserts that she intended to travel to Toronto, but her plans changed at the last minute because one of her daughters became sick. It was her understanding that she was required to vote in person if she was able, and went to the polling place after dropping her other daughter off at school.
8. The Respondent further asserts that she misunderstood the instructions on absentee voting and did not intend to vote twice. She had never voted absentee before and did not know that she was obligated to go to town hall before 10:00am to withdraw her absentee ballot application when she found out that she would not be out of town. She assumed that the absentee ballot would be disregarded after she voted in person.

9. Considering the aforesaid, the Commission finds that the Respondent voted by absentee ballot as well as in-person at her designated polling place in th, therefore casting two votes in the same election. Accordingly, the Commission concludes that the Respondent violated General Statutes § 9-135 by submitted an absentee ballot for which she was not eligible, and § 9-159o by failing to withdraw her absentee ballot before 10:00am on Election Day.
10. 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.
11. The Respondent admits to having voted absentee and in person at her designated polling place on Election Day. Objectively, this is a serious offence; voting fraud calls for a fine between \$300 and \$500, prison for one to two years, and disenfranchisement.
12. However, the evidence in this matter shows that the Respondent had no intention of committing fraud and simply misunderstood her obligation to withdraw the absentee ballot vote. The Commission has noted in the past that “the law requiring an elector to withdraw the absentee ballot, if found that he or she was going to be able to vote in person, is not widely known.” *In the Matter of a Complaint by Brigida Diaz, Bridgeport*, File No. 2000-228.
13. It should also be noted that the polling officials, registrars and town clerk were attentive and handled the matter as they should have in this case. Once aware of the problem, they withheld the absentee vote and contacted the Commission to investigate the case
14. The Respondent has no prior history before the Commission and is genuinely remorseful for her mistake. In the end, only one of her votes actually counted. Considering the

aforesaid, a civil penalty will not be necessary to ensure the Respondent's immediate and continued compliance.

15. 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. Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
16. 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.
17. 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.
18. 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 that the Respondent will henceforth strictly comply with the requirements of General Statutes §§ 9-135 & 9-159o.

The Respondent:

For the State of Connecticut:

Iris M. Farmer

Iris M. Farmer
Wilton, CT

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

Dated: Sept. 18, 2013

Dated: 9/20/13

Adopted this 16 day of October of 2013 at Hartford, Connecticut

Anthony J. Castagno
Anthony J. Castagno, Chair
By Order of the Commission

**RECEIVED
STATE ELECTIONS**

SEP 19 2013

ENFORCEMENT COMMISSION