

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Tina Gardner and Carole Young-Kleinfeld, Wilton

File No. 2012-175

**AGREEMENT CONTAINING CONSENT ORDER AND
PAYMENT OF A CIVIL PENALTY**

This agreement, by and between Giovanni C. Alberino of the City of Norwalk, County of Fairfield, State of Connecticut (hereinafter "Respondent"), and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with the Regulations of Connecticut State Agencies § 9-7b-54 and Connecticut General Statutes § 4-177 (c). In accordance herewith, the parties agree that:

1. Complainants, respectfully the Republican and Democratic Registrars of Voters in the Town of Wilton, filed a complaint alleging that on Election Day November 6, 2012, Respondent restored his inactive voter registration in the Town of Wilton and voted when at the time Respondent was not a *bona fide* resident of Wilton.
2. On November 6, 2012, Respondent presented himself at the polling place in Wilton around 8:30 pm. Respondent discovered he was on the Inactive List, and then completed a new registration application affirming a Wilton address of 244 New Canaan Road, Wilton, Connecticut, to restore his active status and then cast his ballot.
3. Shortly after the election, Complainants sent a confirmation letter to Respondent's purported Wilton address. The letter returned three days later, undelivered. A forwarding address for Respondent at 27 Ohio Avenue, Norwalk, had expired.
4. Connecticut General Statutes § 9-12 provides, in pertinent part:
 - (a) Each citizen of the United States who has attained the age of eighteen years, *and who is a bona fide resident of the town to which the citizen applies for admission as an elector shall*, on approval by the registrars of voters or town clerk of the town of residence of such citizen, as prescribed by law, *be an elector*, except as provided in subsection (b) of this section. For purposes of this section ... *a person shall be deemed to be a bona fide resident of*

the town to which the citizen applies for admission as an elector if such person's dwelling unit is located within the geographic boundaries of such town. No mentally incompetent person shall be admitted as an elector.
[Emphasis added.]

5. Connecticut General Statutes § 9-42 provides, in pertinent part:

(b) If it appears at any time that the name of an elector who was formerly admitted or registered as ***an elector in a town and who is a bona fide resident of such town has been omitted from the active registry list, the registrars of voters shall, upon submission of a new application for voter registration signed by the elector under penalties of false statement, add such name to the active registry list,*** provided no name shall be added to the active registry list on election day without the consent of both registrars of voters.

[Emphasis added.]

6. Connecticut General Statutes § 9-172 provides:

At any regular or special state election any person may vote who was registered on the last-completed revised registry list of the town in which he offers to vote, and he shall vote in the district in which he was so registered; provided those persons may vote whose names are restored to the list under the provisions of section 9-42 or whose names are added on the last weekday before a regular election under the provisions of section 9-17. ***Each person so registered shall be permitted to vote if he is a bona fide resident of the town*** and political subdivision holding the election and has not lost his right by conviction of a disfranchising crime. ...

[Emphasis added.]

7. The Commission has previously determined that: "*bona fide residence*" means a person's *genuine* domicile: More specifically, it is that place where a person maintains a true, fixed, and principal home to which he, whenever transiently relocated, has a genuine intent to return. See *Complaint of Nancy Rossi*, West Haven, File No. 2006-109; *In the Matter of an Appeal of Gerald and Marianne Porricelli*, File No. 2007-154.
8. Upon investigation, the Commission finds that Respondent lived at his mother's house at 244 New Canaan Road, Wilton, until moving to 149 Water Street, Apartment 26, Norwalk, at some time in 2006. Further, the Commission finds that Respondent was subsequently placed on the Inactive List by the Registrars of Voters. Respondent, as detailed herein, restored his active status in the 2008 election, using his previous Wilton address which his mother owned.
9. The Commission finds that Respondent's mother owned the Wilton house until 2010, when she sold it to the current owners who have no relation to Respondent or his family. Complainants attempted to contact Respondent to clarify his address, after the aforementioned sale, but received no reply. Consequently, they again placed him on the Inactive List on April 8, 2011.
10. The Commission further finds that when voting in the November 2012 election, Respondent restored his voting status to active in Wilton indicating his mother's prior house at 244 New Canaan Road as his address. Furthermore, the Commission finds that confirmation letter was sent by Complainants addressed to Respondent at the aforementioned address which he provided on his November 6, 2012 voter registration card, which was returned to the Wilton Office of Registrars of Voters, undelivered.
11. Finally, the Commission finds, and Respondent admits that since 2006 he has lived in various locations, other than Wilton, including Warren, Vermont and Norwalk, Connecticut.
12. The Commission concludes, for the reasons detailed herein, that the Wilton address provided by Respondent at the November 6, 2012 election did not satisfy the standards for being his *genuine* domicile pursuant to elector qualifications as required by General Statutes § 9-612. See *Complaint of Nancy Rossi*, West Haven, File No. 2006-109; *In the Matter of an Appeal of Gerald and Marianne Porricelli*, File No. 2007-154.

13. The Commission therefore concludes, for the reasons detailed in paragraphs 8 through 12 above, that Respondent violated General Statutes §§ 9-12, 9-42 and 9-172 by registering to vote and voting in a town in which he was not a *bona fide* resident using a former address that no longer served as his genuine domicile.
14. The Commission considers voting in a jurisdiction other than the one where the voter maintains his *bona fide* residence, and making representations in support of such activity, to be serious offenses, but is utilizing its civil authority due to what it perceives as the lack of intent on the part of the Respondent to commit a crime. Respondent acknowledges that the above violations are serious and subject him to possible criminal penalties.
15. The Commission has carefully considered that the Respondent has no prior cases with the Commission and the Respondent's lack of specific knowledge concerning voter registration requirements. Specifically, Respondent continued to pay his vehicle tax in Wilton. The tax bill was mailed to Respondent's Norwalk address. Respondent alleges that he mistakenly believed that paying his motor vehicle tax in Wilton was sufficient to establish his eligibility to vote there. Furthermore, Respondent asserts that he was only living in Norwalk temporarily and therefore did not register to vote there.
16. At the time of the 2012 election, Respondent was *not* registered to vote in any other location, nor did he attempt to vote anywhere else other than Wilton. Respondent's vote would not have materially changed the results in any of the races. While not excusing conduct, these circumstances may be considered mitigating and lessen the gravity of Respondent's actions. Finally, the Commission, while not condoning Respondent's actions in this instance, Respondent was *not* registered to vote in any other location, nor is there evidence that he attempted to vote in any other jurisdiction. The Commission finds the aforementioned circumstances, as mitigating circumstances pertaining to the gravity of Respondent's actions.
17. 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 of this agreement and order as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.

18. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
19. 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.
20. Upon the Respondent's compliance with the Order hereinafter stated, including the full and complete payment of any civil penalty set forth herein, the Commission shall not initiate any further proceedings against Respondent with respect to this matter.

ORDER

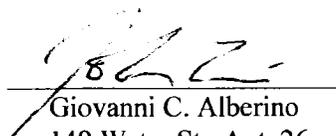
IT IS HEREBY ORDERED that Respondent shall pay a civil penalty in the amount of five hundred dollars (\$500.00) to the State Elections Enforcement Commission, of which two hundred and fifty dollars (\$250.00) will be paid on or before November 20, 2013, and the remainder of which in the amount of two hundred and fifty dollars (\$250.00) will be paid on or before December 20, 2013.

IT IS FURTHER ORDERED that Respondent shall henceforth strictly comply with General Statutes §§ 9-12, 9-42 and 9-172.

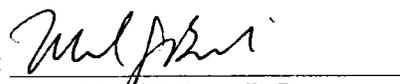
The Respondent:

For the State Elections Enforcement Commission:

By:


Giovanni C. Alberino
149 Water St., Apt. 26
Norwalk, CT 06854

By:


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

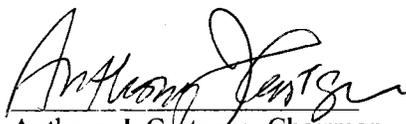
Dated:

11/20/13

Dated:

11/26/13

Adopted this 20th day of November, 2013 at Hartford, Connecticut by vote of the Commission.

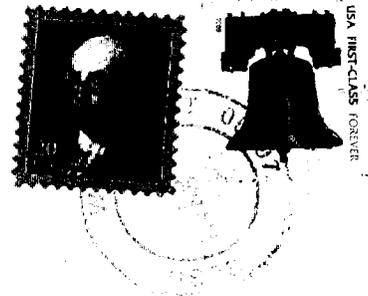

Anthony J. Castagno, Chairman
By Order of the Commission

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ENFORCEMENT COMMISSION

G. Albarrino
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Norwalk, CT 06854



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