

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Dana Ozimek, Mansfield Center

File No. 2013-009

FINDINGS AND CONCLUSIONS

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that the Respondent Chaplin Republican Registrar of Voters impermissibly registered a voter for the November 6, 2012 General Election.

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

1. The Complainant alleges that on or about November 4, 2012 she was working in the Chaplin Town Hall and overheard a telephone conversation involving the Respondent William Jenkins, the Chaplin Republican Registrar of Voters, and a prospective Chaplin voter, who later turned out to be an Ivy Pozzato. The Complainant alleges that she heard what sounded to her like the Respondent becoming angry and appeared to be blaming the Chaplin Town Clerk for some error. The Complainant further alleges that she overheard the Respondent stating something that sounded like him telling Ms. Pozzato that she would add either Ms. Pozzato, or Ms. Pozzato's son, to the voter list (in time to vote for the November 6, 2012 General Election). Finally, she alleges that she overheard the Respondent tell Ms. Pozzato that "if anyone asks" to tell them that she and the Respondent "met in person, before October 26."
2. For the November 6, 2012 General Election, applicants whose mail-in registrations were postmarked by October 24, 2012, 14 days prior, were eligible to cast a ballot in that election. The voting privileges of those voters whose applications were postmarked subsequent to that date did not attach until the day after the November 6, 2012 General Election.
3. General Statutes § 9-23g reads, in pertinent part:
 - (d) (1) Except as otherwise provided in this subsection, the privileges of an elector for any applicant for admission under this section and section 9-23h shall attach immediately upon approval by the registrar, and the registrars shall enter the name of the elector on the registry list.

(2) Except as provided in subdivision (3) of this subsection, *if a mailed application is postmarked, or if a delivered application is received in the office of the registrars of voters, after the fourteenth day before an election or after the fifth day before a primary, the privileges of an elector shall not attach until the day after such election or primary*, as the case may be. In such event, the registrars of voters may contact such applicant, either by telephone or mail, in order to inform such applicant of the effect of such late received mail-in application and any applicable deadline for applying for admission in person.

(3) If an application is received after the fourteenth day before an election or after the fifth day before a primary by the Commissioner of Motor Vehicles or by a voter registration agency, the privileges of an elector shall not attach until the day after the election or primary, as the case may be, or on the day the registrar approves it, whichever is later. [Emphasis added.]

4. The registration deadline for in-person registrations of individuals whose qualifications as to age, citizenship or residence in the municipality were attained more than 7 days prior to the General Election was October 31, 2012. See General Statutes § 9-17.¹
5. Ms. Pozzato's registration card indicates that she signed the card on October 24, 2012. The card indicates that the Respondent received the card on October 29, 2012 and sent notice to Ms. Pozzato on November 5, 2012.
6. The records do not indicate when Ms. Pozzato's registration card was received or in what form (mail or in-person).
7. The records of the Connecticut Voter Registration System ("CVRS") indicate that Ms. Pozzato's registration was entered on November 4, 2012 by the Respondent and that her voting privileges were set to attach immediately upon that date.
8. Ms. Pozzato's name appeared on the voter list for her polling place and she is recorded as having cast a ballot in the November 6, 2012 General Election.
9. The investigation revealed that Ms. Pozzato's son, who was already a voter in Chaplin and lived in the same apartment complex, encouraged her to vote in the November 2012

¹ Individuals who whose qualifications as to age, citizenship or residence in the municipality were attained after October 31, 2012 were eligible vote in the General Election if they registered up to five o'clock p.m. one day prior (November 5, 2012).

General Election. With her son's encouragement Ms. Pozzato telephoned Chaplin Town Hall from her job in Rhode Island and spoke with a woman whose name she could not remember, about registering for the upcoming election. Ms. Pozzato believed that the woman told her that it was the last day to register by mail and that she would need to have her registration postmarked by that day if she wished to be eligible. Ms. Pozzato received a faxed registration form from Chaplin Town Hall, which she immediately filled out and remitted to the post office to be postmarked that day. Based on the representations that she asserted were given to her, Ms. Pozzato believed at the time that she would be eligible to vote in the November 6, 2012 General Election.

10. The investigation was unable to confirm the identity of the person with whom Ms. Pozzato claims to have spoken regarding the mail-in registration deadline. Ms. Pozzato never knew the individual's name and no individual interviewed admitted to the conversation.
11. Approximately a week later, Ms. Pozzato called the Chaplin Town Hall to inquire as to the status of her application. Ms. Pozzato spoke with the Respondent and the Respondent assured her that she would be eligible to vote.
12. However, Ms. Pozzato did not corroborate the Complainant's allegation that the Respondent told her to lie about the circumstances of her registration. However, she did recall that she believed that the person with whom she spoke said something approximating the phrase "just between you and me; you'll be eligible to vote."
13. The investigation did not reveal any further contact between Ms. Pozzato and the Respondent.
14. During the investigation, the Respondent asserted that on or about October 29, 2012, he arrived at the Chaplin Town Hall and found Ms. Pozzato's registration card in his inbox. He asserts that only the card, without any other identifying information, was forwarded to him. He could not determine as to who received the card, what date the card was received, or in what form the card was received (mail or in-person). He asserts that at the time he was upset that there was no identifying information.
15. He proceeded to attempt to process the card as though it were an in-person application, which included indicating the date that he received it on the card itself and attempting to enter Ms. Pozzato's data into CVRS.
16. The Respondent asserted that he failed to successfully enter Ms. Pozzato's registration into CVRS on October 29, 2012 as he was blocked from entering any data by the CVRS system. As such, the registration would have to wait to be processed into CVRS until he was back in the office, which was not until November 4, 2012 given his part-time status.

17. The Respondent further asserted that when he was back in the office on November 4, 2012 and received a telephone call from Ms. Pozzato at that time. He confirmed what Ms. Pozzato stated about being told that her registration was mailed and would be eligible if she got it postmarked by that date.
18. Subsequent to the conversation with Ms. Pozzato, he entered her registration as having been timely received and eligible for the November 6, 2012 General Election. He asserted that he did not think that it was fair to the voter that she was misled by whoever it was that she spoke with at Town Hall on or about October 24, 2012.
19. The Respondent asserted that he decided that because he believed that Ms. Pozzato acted in good faith reliance upon the assurance of the Town Hall employee with whom she spoke, she should not lose out on her opportunity to cast a ballot in that year's quadrennial Presidential election. Moreover, he asserted, the error that led to the postmarked envelope being discarded left him with a terrible choice and not enough information to make it. As such, he decided to err on the side of enfranchising the voter for the upcoming election.
20. Considering the aforesaid, the Commission concludes that while it is possible that Respondent William Jenkins did not know on October 29, 2012, when he received Ms. Pozzato's unmarked registration card, that Ms. Pozzato had mailed the card, he should have known the full truth after his telephone conversation with Ms. Pozzato on November 4, 2012.
21. Here, the Respondent had a statutory responsibility to properly activate Ms. Pozzato's registration at the appropriate time, which in this case should have been *after* the November 6, 2012 General Election. However unfortunate the circumstances, he did not have any statutory flexibility to register her for the upcoming November election without a postmark to prove that the registration was timely sent.
22. However, there also appears to have been no negative repercussion of this act. No races would have been overturned without her vote. The Respondent and Ms. Pozzato's were previously unknown to each other and were members of opposing political parties.
23. Moreover, while the proof is inconclusive, the circumstances suggest that Ms. Pozzato was indeed either misled, or at least not fully informed, of how she could become an eligible voter in that year's election. At the time she first called Town Hall and sent in her registration, she had a full week before the in-person registration deadline. The evidence suggests that she was never informed of this option.

24. Moreover, the Commission sympathizes with the situation in which the Respondent was placed by having very little information upon which to base his registration decision.
25. Additionally, with the advent of Election Day Registration with Public Act 12-56 of the 2012 Public Acts, effective July 1, 2013, no registrars will find themselves in this bind in the future. The Commission has taken this into account in a recent previous matter in waiving a civil penalty. See *In the Matter of a Complaint by Patricia A. Plourde, Middletown*, File No. 2012-006.
26. While the Respondent may have not fully hewed to the letter of the statute, his actions were taken in the last election before election day registration was to be implemented and in the service of enfranchising someone whom he thought had been misled into disenfranchisement by an election official.
27. The Respondent has no similar prior history before the Commission.
28. Considering the aforesaid, the Commission will take no further action in this matter.

ORDER

That no further action be taken.

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



Anthony J. Castagno, Chair
By Order of the Commission