

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Stanley Heller and Lou Ann Villani, West Haven

File No. 2013-017

AGREEMENT CONTAINING A HENCEFORTH ORDER

This agreement, by and between Jo Ann Callegari, Michelle Hufcut and Cheryl Corbally of the City of West Haven, County of New Haven, State of Connecticut (hereinafter "Respondents"), 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. Respondents served as the Republican Registrar of Voters, the Town Clerk, the former Democratic Registrar of Voters and the Head Moderator of West Haven, respectively.
2. Complainants alleged that they cast votes for registered write-in candidate Jill Stein of the Connecticut Green Party at the West Haven District Six polling place at Forest School in the November 6, 2012 election.
3. West Haven reported zero votes for Jill Stein in all districts at the November 6, 2012 election.
4. Connecticut General Statutes § 9-265 provides, in pertinent part:

(a) A write-in vote for an office, cast for a person who has registered as a write-in candidate for the office pursuant to subsection (b) of section 9-175 or section 9-373a, shall be counted and recorded...
[Emphasis added.]
5. Section 9-242a-23 of the Regulations of Connecticut State Agencies, in pertinent part:

The polling place officials shall complete the moderator's returns *and shall be guided by instructions of the Secretary of the State*. The moderator and assistant registrar of voters shall record on the moderator's returns the voting tabulator result totals for each candidate and

question. *The Moderator and assistant registrar of voters shall unlock and remove all the ballots from the write-in bin. They shall record the number of ballots in the write-in bin. They shall count by hand the votes cast of the office in which the elector indicated a write-in vote. They shall record on the moderator's returns the write-in votes in accordance with the law governing write-in ballots.*

[Emphasis added.]

6. The Office of the Secretary of the State has issued written instructions advising that: *Registrars are jointly responsible for proper voting machine preparation, polling place preparation, poll worker training and other duties as required by Connecticut election laws. See Moderator's Handbook of Elections and Primaries (Rev. 9/11), Secretary of the State of Connecticut. The Commission has historically concurred with the aforementioned instruction and defers to such written instructions pursuant to General Statutes §9-3.*
7. Upon investigation, it was found that the District 6 voting tape at Forest School showed six write-in votes. Four of the six were for presidential candidate Jill Stein, and two were for unregistered write-in candidates. The Commission that finds these votes were not originally counted and incorporated in the Head Moderator's Return and therefore were not reported as returns at the November 6, 2012 in West Haven.
8. The Commission notes that while West Haven Head Moderator's Returns to the Secretary of the State were originally inaccurate as reported because they failed to include four votes for Jill Stein, they have pursuant to this investigation and the cooperation of Respondents have since been amended and resubmitted to the Secretary of the State, correcting the mistake.
9. Further, the Commission concludes that Respondents Callegari and Hufcut, based on their joint responsibilities for the training and supervision of elections officials, share responsibility for the failure of City or West Haven to record and report all valid write-in votes at the November 6, 2012 election as required by § 9-265.

10. The Commission finds that the Respondents cooperated in this investigation; that there was no indication that the violations detailed herein were willful; and notes that Respondents have no prior history with the Commission regarding the canvass for valid write-in candidates.
11. Respondents admit all jurisdictional facts and agree 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 copies hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies of this agreement.
12. 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 Respondents and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
13. 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.
14. Upon the Respondents' compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against them with respect to this matter.

ORDER

IT IS HEREBY ORDERED that Respondents shall henceforth strictly comply with General Statutes § 9-265 and take caution when recording and reporting write-in votes in future elections.

The Respondents:

For the State Elections Enforcement Commission:

By: *Jo Ann Callegari*
Jo Ann Callegari
355 Main St., 1st floor
West Haven, CT 06516

By: *Michael J. Brandi*
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: 9-17-13

Dated: 10/18/13

By: _____
Michelle P. Hufcut
1010 Ocean Avenue
West Haven, CT 06516

Dated: _____

By: *Cheryl A. Corbally*
Cheryl Corbally
350 Augusta Drive
Orange, CT 06477

Dated: 9-18-13

Adopted this 18th day of September, 2013 at Hartford, Connecticut by vote of the Commission.

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