

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Hector L. Lopez and David Bedell, New Canaan

File No. 2013-018

AGREEMENT CONTAINING A HENCEFORTH ORDER

This agreement, by and between George F. Cody and Kathleen Redman of the Town of New Canaan, County of Fairfield, 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 Cody and Redman, served as the Democratic Registrar of Voters and the Republican Registrar of Voters in the Town of New Canaan, respectively.
2. Complainants alleged that the Respondents failed to report votes for registered write-in candidates in the November 6, 2012 election, therefore violating General Statutes § 9-265 (a).
3. Specifically, Complainant Lopez alleged that at the New Canaan High School District One polling place he cast a write-in vote for Jeff Russell for United States Senate on November 6, 2012. Further, Complainant Bedell alleged that at the District Two Saxe Middle School polling place he cast a write-in vote for Jill Stein for President and Jeffrey Russell for United States Senate
4. New Canaan reported one write-in vote, for Jeff Russell, in all districts at the November 6, 2012 election to the Office of the Secretary of the State.
5. 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.]

6. Section 9-242a-23 of the Regulations of Connecticut State Agencies further provides the individual responsible for counting and recording the write-in ballots. That provision provides as follows, 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.]

7. Upon investigation, it was determined that the Respondents failed to ensure that four valid votes for presidential Candidate Jill Stein, one valid vote for U.S. Senate Candidate Jeff Russell, and one valid vote for State Senate 26 Candidate Remy Chevalier were reported to the Office of the Secretary of the State.
8. Further, the Commission finds that the original amended Head Moderator's report, completed December 7, 2013, reported one write-in vote *properly* cast for Jeff Russell in District One, one write-in vote properly cast for Remy Chevalier in District Two, and no write-in votes properly cast in District Three.
9. Respondents in the course of this investigation conducted a recount of votes for registered write-in candidates on May 22, 2013. The Commission finds, pursuant to that recount, it was determined that that the previous District One report *was* consistent, including just one vote for Jeff Russell. Further, the Commission finds that the recount indicated that District Two reported one write-in vote for Remy Chevalier, but that original December 7th report failed to include one proper write-in vote for Jeff Russell and one for Jill Stein.
10. Additionally, the Commission finds that the aforementioned May 22nd recount revealed for District Three, that the original December 7th report failed to include any write-in votes for registered candidates, while there was actually one proper write-in vote for Jill Stein. The Commission also finds that one proper write-in vote by absentee ballot for Jill Stein in

District One had not been counted. The Respondents have no previous record of failing to comply with law regarding write-in votes.

11. The Commission concludes for the reasons detailed herein that Respondents violated General Statutes § 9-265 by failing to ensure that all valid write-in votes were counted and reported to the Office of the Secretary of the State on December 7, 2012.
12. The Commission notes that any such errors of tallying and accounting for write-in votes for certified registered write-in candidates appear to been caused by unintentional error and that through the Respondents the Head Moderator's Returns have since been amended and resubmitted to the Secretary of the State as well as the New Canaan Town Clerk, correcting and addressing any such errors and consistent with the requirements of General Statutes § 9-265.
13. 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 Respondents shall each receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
14. 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 Respondents and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
15. 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.
16. Upon the Respondents' compliance with the Order hereinafter stated, the Commission shall not initiated any further proceedings against Respondents 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: George F. Cody
George F. Cody
237 Elm Street, 2nd Floor
New Canaan, Connecticut

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: Oct 4, 2013

Dated: 10/8/13

By: Kathleen Redman
Kathleen Redman
237 Elm Street, 2nd Floor
New Canaan, Connecticut

Dated: Oct. 4 2013

Adopted this 16th day of October, 2013 at Hartford, Connecticut by vote of the Commission.

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

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OCT 8 2013

ENFORCEMENT COMMISSION