

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
James D. Smith, *et al.*, Bridgeport

File No. 2013-021

AGREEMENT CONTAINING A HENCEFORTH ORDER

This agreement, by and between Santa I. Ayala and Linda A. Grace, of the City of Bridgeport, 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, Santa I. Ayala and Linda A. Grace, served as the Democratic Registrar of Voters and the Republican Registrar of Voters respectively, at all times relevant to this complaint and the November 6, 2012 election in the City of Bridgeport.
2. Jill Stein was a registered write-in candidate for President and appeared as such on a list of registered write-in candidates prepared and provided by the Office of the Secretary of the State to municipalities prior to the November 6, 2012 election. Complainants alleged that that the Respondents failed to report votes for a registered write-in candidate in the November 6, 2012 election in Districts 126 and 128.
3. 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.]
4. General Statutes § 9-314 provides:

(a) As used in this subsection, "moderator" means the moderator of each municipal election in each town not divided into voting districts ... The moderator shall forthwith *transmit to the Secretary of State the results of the vote for each office contested at such election by facsimile machine or other electronic means prescribed by the Secretary of State, not later than midnight on election day...*
[Emphasis added.]

5. 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.]

6. The Commission finds that Respondents, as the chief elections officials at the November 6, 2012 election, share joint responsibility for the accurate administration of such elections. More specifically, and to this point, 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. In the course of this investigation the Respondents have conducted a recount of write-ins and amended the returns for the November 6, 2012. Specifically, On May 21, 2013 the City of Bridgeport scheduled and conducted a recount of write-in votes for Complainants respective voting Districts 126 and 128.

8. The Commission finds that the recount, as detailed herein, revealed three (3) write-in votes for Jill Stein for President, which originally were not recorded by the respective moderators in voting Districts 126 and 128 at the November 7, 2012 in the City of Bridgeport. Further, the Commission finds that, as a result of that recount, and by cooperation and agreement of the Respondents, the corrected returns were transmitted to the Office of the Secretary of the State and the City of Bridgeport Town Clerk's office.
9. The Commission notes, that the Respondents have been cooperative throughout this investigation and through City of Bridgeport Corporation Counsel explained that any such errors with the recording and transmitting of votes for registered write-in candidates occurred "due to the unusually busy, hectic and long election day." Moreover, the Respondents promptly undertook proactive steps to avoid future similar incidents. In particular, the Respondents imposed a requirement for each polling place moderator to sign a document entitled "Write-in Votes for Registered Write-in Candidates*" to be attached to the Secretary of State's List of Registered Write-in Candidates.
10. The Commission finds that there was no indication that failures by moderators in Districts 126 and 128 were willful or intentional. Nevertheless, the Commission concludes that the failure of the moderators to properly record and transmit the write-in votes for registered candidates violated General Statutes §§ 9-265 and 9-314. Moreover, the Commission concludes that Respondents ultimately bore the responsibility for ensuring the accurate recording and transmitting of votes at the November 6, 2012 election in the City of Bridgeport.
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 Respondents shall receive copies hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
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 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.

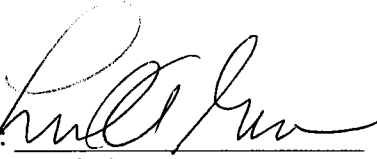
14. Upon the Respondents' compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondents with respect to this matter.

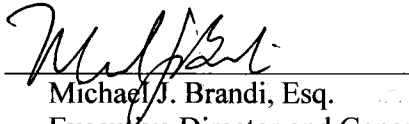
ORDER


IT IS HEREBY ORDERED that the Respondents shall henceforth strictly comply with General Statutes §§ 9-265 and 9-314; and take caution when overseeing the recording and transmitting of write-in votes in future elections.

The Respondents:

For the State Elections Enforcement Commission:

By: 
Linda A. Grace
999 Broad Street
Bridgeport, Connecticut

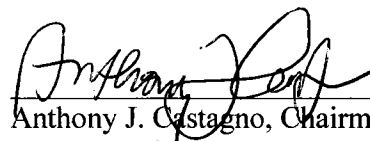
By: 
Michael J. Brandi, Esq.
Executive Director and General Counsel
and Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

By: 
Santa I. Ayala
999 Broad Street
Bridgeport, Connecticut

Dated: 1/30/14

Dated: 19 MAR 2014

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


Anthony J. Castagno, Chairman
By Order of the Commission

**RECEIVED
STATE ELECTIONS**

JAN 31 2014

ENFORCEMENT COMMISSION