

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

Complaint of Karen A. Murphy and Michael J. Telesca,  
Stamford/Waterbury

File No. 2013-127

**AGREEMENT CONTAINING CONSENT ORDER**

This agreement by and between John Dietter, Town of Bethel; Donna L. LaFrance, Town of Wolcott; and, Roger A. Palanzo, Sr., City of Danbury, and the State of Connecticut (hereinafter "Respondents") and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the regulations of Connecticut State Agencies and Section 4-177 (c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Complainants filed this complaint alleging various violations by Respondents pertaining to the Independent Party of Connecticut (hereinafter "IPC") caucus held on August 27, 2013 in the City of Danbury.
2. Specifically, Complainants alleged that:
  - (1) Respondents failed to provide written notice of the date, time and location and purpose the August 27, 2013 Danbury caucus (hereinafter "Caucus") to the Stamford City Clerk and the Office of the Secretary of the State (hereinafter "SOTS");
  - (2) Respondent failed to cause written notice of meeting to be published in newspaper with general circulation;
  - (3) Respondents held caucus in Danbury pertaining to Stamford municipal offices in violation of General Statutes § 9-372 (1);
  - (4) Respondents failed to observe minor party rules of Independent Party in violation of General Statutes § 9-451; and,
  - (5) Respondents are not the legitimate officers of the Independent Party.
3. At all times relevant to this complaint Complainants and Respondents were registered members of the IPC. Respondents have no prior history with the Commission.
4. General Statutes § 9-372, provides that the following terms ... shall have the following meanings:
  - (1) "Caucus" means *any meeting, at a designated hour and place, or at designated hours and places, of the enrolled members of a political party within a municipality or political subdivision* thereof for the purpose of selecting party-endorsed candidates for a primary to be held by such party or for the purpose of transacting other business of such party; ...  
[Emphasis added.]

5. General Statutes § 9-374 provides, in pertinent part:

No authority of the state or any political subdivision thereof having jurisdiction over the conduct of any primary shall permit the name of a party-endorsed candidate for an office or position to be printed on the official ballot to be used at any such primary unless a copy of the party rules regulating such party and its method of selecting party-endorsed candidates for nomination to such office or for election as town committee members, as the case may be, has been filed in the office of the Secretary of the State at least sixty days before such candidate is selected under such method of endorsement. ... The state party rules shall be filed by the state chairman or the secretary of the state central committee of such party. In the case of a minor party, no authority of the state or any subdivision thereof having jurisdiction over the conduct of any election shall permit the name of a candidate of such party for any office to be printed on the official ballot unless at least one copy of the party rules regulating the manner of nominating a candidate for such office has been filed in the office of the Secretary of the State at least sixty days before the nomination of such candidate. In the case of a minor party, the selection of town committee members and delegates to conventions shall not be valid unless at least one copy of the party rules regulating the manner of making such selection has been filed in the office of the Secretary of the State at least sixty days before such selection is made. ... The term "party rules" as used in this section includes any amendment to such party rules. When any amendment is to be filed as required by this section, complete party rules incorporating such amendment shall be filed, together with a separate copy of such amendment.

6. General Statutes § 9-451 provides:

The nomination by a minor party of any candidate for office, including an office established after the last-preceding election, and the selection in a municipality by a minor party of town committee members or delegates to conventions *may be made in the manner prescribed in the rules of such party*, or alterations or amendments thereto, filed with the Secretary of the State in accordance with section 9-374.

[Emphasis added.]

7. General Statutes § 9-452a provides:

Not later than five days before a minor party holds a party meeting to nominate a candidate for public office, ***the presiding officer of such meeting shall give written notice of the date, time, location and purpose of the meeting to, in the case of a municipal office, the town clerk of the municipality served by such office,*** or in the case of a state office or district office, the Secretary of the State. ***Concomitantly, the presiding officer of such meeting shall cause the written notice of such meeting to be published in a newspaper with a general circulation in the applicable town for such office.*** As used in this section, the terms “minor party”, “state office”, “district office” and “municipal office” have the meanings assigned to such terms in section 9-372.

[Emphasis added.]

8. Allegation One: *Respondents failed to provide written notice of the date, time and location and purpose of a caucus to the Stamford City Clerk and the SOTS.*

9. Upon investigation, the Commission finds that the Respondents do not dispute that they failed to provide the Stamford City Clerk’s office with notice of the Caucus. Further, the Commission finds that IPC endorsements of candidates at the Caucus were made for the Stamford municipal offices of Mayor and Town and City Clerk.

10. General Statutes § 9-452a requires: *Not later than five days before a minor party holds a party meeting to nominate a candidate for public office, the presiding officer of such meeting shall give written notice of the date, time, location and purpose of the meeting to, in the case of a municipal office, the town clerk of the municipality served by such office, ... [and] the presiding officer of such meeting shall cause the written notice of such meeting to be published in a newspaper with a general circulation in the applicable town for such office.* (Emphasis added.) The Commission concludes that § 9-452a, required that Respondents provide a notice of the Caucus to *each* municipality for which municipal office endorsements were applicable.

11. The Commission concludes, as detailed in paragraphs 9 and 10 above, that Respondents were required to provide notice to the Stamford City Clerk’s office of the Caucus where the IPC endorsed candidates for Stamford municipal offices pursuant to as required by General Statutes § 9-452a. The Commission therefore concludes that Respondents’ violated § 9-452a by failing provide such notice.

12. Allegation Two: *Respondents failed to cause written notice of meeting to be published in newspaper with general circulation.*
13. Upon investigation, the Commission finds that the Respondents published a single notice of the August 27, 2013 Independent Party caucus August 20, 2013 *Danbury News-Times*. General Statutes § 9-452a, as detailed above, requires that the presiding officer of the meeting (caucus) cause a written notice of such meeting be published in a newspaper with a general circulation “in the applicable town for such offices.” The Commission further finds, as detailed herein, that because the IPC endorsed individuals for the municipal offices of Mayor and Town and City Clerk of Stamford and consequently concludes that Stamford was an “applicable town” for purposes of § 9-452a.
14. The Commission determined by investigation that Respondents did *not* cause a notice to be published in a newspaper of general circulation in Stamford, but rather did so in the *Danbury News-Times* that includes Danbury and its surrounding environs (but not Stamford) within its general circulation. The Commission concludes that Respondents were required by General Statutes § 9-452a to publish a notice of the Caucus in a newspaper of general circulation in Stamford but failed to do so. Therefore, the Commission concludes that Respondents violated § 9-452a by failing to cause a notice of caucus to be published.
15. Allegation Three: *Respondents held a caucus in Danbury pertaining to Stamford municipal offices in violation of General Statutes § 9-372 (1).*
16. The Complainants alleged that Respondents violated General Statutes § 9-372 (1), which defines “caucus” as “...*any meeting, at a designated hour and place, or at designated hours and places, of the enrolled members of a political party within a municipality or political subdivision thereof for the purpose of selecting party-endorsed candidates for a primary to be held by such party or for the purpose of transacting other business of such party,*” because the Caucus of the IPC in Danbury was held in the incorrect “venue,” or place, for endorsements pertaining candidacies for municipal office in Stamford.
17. General Statutes § 9-372 (1) requires that the requisite membership of a caucus be within a municipality or political subdivision relating to the office for which endorsements are made to qualify as a “caucus” it does *not* address what *geographic* place or location must be used for such meeting of its members. That is, a meeting of enrolled party members is a “caucus” because party members gather with the purpose of endorsing candidates are all enrolled in the same municipality and/or political subdivision (regardless of where such meeting occurs).

18. Consequently, Complainants' allegation pertaining a violation of General Statutes § 9-372 (1), which is silent as to the requirements of the *location* of a caucus, fails as a matter of law. There was no requirement that the Caucus that endorsed municipal candidates for Stamford be physically held within that municipality pursuant to § 9-372 and therefore no violation of that section under these circumstances. The Commission therefore dismisses Allegation Three.
19. Allegation Four: *Respondents failed to observe minor party rules of Independent Party in violation of General Statutes § 9-451.*
20. General Statutes § 9-451 provides that the minor party nomination process "...*may* be made in the manner prescribed in the rules of such party." [Emphasis added.] The permissive nature of "may" denotes a statutory option not a statutory requirement.
21. The Commission concludes that General Statutes § 9-451 plainly allows, but does not require, a minor party's implementation of its party rules in its nomination process. Further, the Commission concludes that Respondents' choice not to implement party rules in designing and implementing its nomination process was an alternative permitted by § 9-451.
22. The Commission finds after investigation, and for the reasons detailed in paragraphs 20 and 21 above, that Allegation Four lacks a predicate for a potential violation of General Statutes § 9-451. The Commission, without reaching the merits of Complainants' claim in Allegation Four, dismisses the allegation because it fails as a matter of law.
23. Allegation Five: *Respondents are not the legitimate officers of the Independent Party.*
24. The Complainants alleged that Respondents were not the "legitimate officers" of the Independent Party. The Commission finds that such a determination is not within its jurisdiction under these circumstances and pursuant to its authority provided by General Statutes § 9-7b.<sup>1</sup> The Commission therefore dismisses Allegation Five based on jurisdictional limits.

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<sup>1</sup> The Commission notes, that IPC factions, represented primarily by Complainants and Respondents, have previously litigated issues over party control prior to the November 2012 election. More specifically, Complainants in this matter sought a mandamus against the current Respondents from nominating candidates for the Independent Party line on the ballot, which the Superior Court denied in *Independent Party of CT, Et Al. v John L. Dietter, Et Al* (CV12-5016387S).

25. The Respondents admit all jurisdictional facts and agrees that this agreement shall have the same force and effect of a final order and become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
26. 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 by either party in any subsequent hearing, if the same becomes necessary.
27. 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.
28. Upon the Respondents' compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against them pertaining to this matter.

**ORDER**

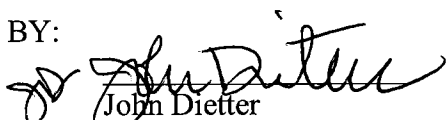
IT IS HEREBY ORDERED that the Respondents, based on violations of General Statutes § 9-452a found pertaining to Allegations One and Two herein, shall henceforth strictly comply with General Statutes § 9-452a and its requirements.

IT IS HEREBY FURTHER ORDERED that Allegations Three, Four and Five are dismissed as they were not supported by the facts and law after investigation, and/or were inconsistent with Commission jurisdiction, as detailed herein.

Respondents for the Independent Party:  
Of Connecticut

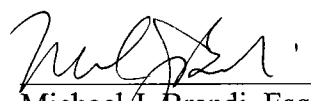
For the State of Connecticut:

BY:

  
John Dieter  
18 Reynolds Ridge  
Bethel, Connecticut

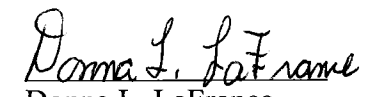
Dated: 3-24-15

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

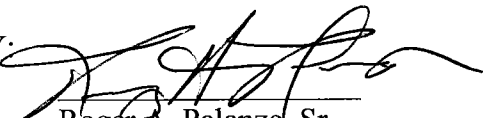
Dated: 3/31/15

BY:

  
Donna L. LaFrance  
~~29 Sandy Lane~~ TLYMAN RD. BUILDING 2, UNIT D. 1,  
Wolcott, Connecticut


Dated: 3-24-15

BY:

  
Roger A. Palanzo, Sr.  
45 Briarwood Drive  
Danbury, Connecticut

Dated: 03/24/2015

Adopted this 14 day of April, 2015 at Hartford, Connecticut

  
Anthony J. Castagno, Chairman  
By Order of the Commission