

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint of Angel DePara, et al, Bridgeport

File No. 2013-138

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Richard DeJesus, of the City of Bridgeport, County of Fairfield, State of Connecticut 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

1. The Complainants allege that the Respondent, Richard DeJesus, did not live at 946 Noble Ave in Bridgeport when he registered to vote there in August 2012 and voted there in the August 2012 Democratic Party Primary & November 2012 General Election, but rather lived at his girlfriend Miriam Marin's house at 1876 Noble Ave, which was located in a different House General Assembly district and a different Common Council district.

Law

2. General Statutes § 9-7b (a), provides, in pertinent part:
 - (a) The State Elections Enforcement Commission shall have the following duties and powers:
 - ...
 - (2) To levy a civil penalty not to exceed . . . (C) two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum.
 - ...

¹ The following are the Commission's findings and conclusions based on those portions of the statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission's jurisdiction. Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission's jurisdiction.

(3) . . . (E) To issue an order following the commission's determination of the right of an individual to be or remain an elector when such determination is made (i) pursuant to an appeal taken to the commission from a decision of the registrars of voters or board of admission of electors under section 9-311, or (ii) following the commission's investigation pursuant to subdivision (1) of this subsection;

3. An elector is eligible to register and vote in a particular town or political subdivision thereof only if such voter is a bona fide resident of such town. General Statutes § 9-12. provides in pertinent part::

(a) Each citizen of the United States who has attained the age of eighteen years, and who is a bona fide resident of the town to which the citizen applies for admission as an elector shall, on approval by the registrars of voters or town clerk of the town of residence of such citizen, as prescribed by law, be an elector, except as provided in subsection (b) of this section. For purposes of this section a person shall be deemed to have attained the age of eighteen years on the day of the person's eighteenth birthday and a person shall be deemed to be a bona fide resident of the town to which the citizen applies for admission as an elector if such person's dwelling unit is located within the geographic boundaries of such town. No mentally incompetent person shall be admitted as an elector. . . .

4. In addition to the statutory prongs of age, citizenship and geographic location identified above, an individual's bona fide residence must qualify as the place where that individual maintains a true, fixed, and principal home to which he or she, whenever transiently relocated, has a genuine intent to return. See, e.g., *In the Matter of a Complaint by Joshua P. Erlanger, New Haven*, File No. 2013-116; *Referral by Manchester Registrars of Voters, Manchester*, File No. 2013-077; *In the Matter of a Complaint by Gary Amato, North Haven*, File No. 2009-158 (2010); *In the Matter of a Complaint by Cicero Booker, Waterbury*, File No. 2007-157. In other words, "bona fide residence" is generally synonymous with domicile. *Id.*; cf. *Hackett v. The City of New Haven*, 103 Conn. 157 (1925). The Commission has concluded, however, that "[t]he traditional rigid notion of 'domicile' has . . . given way somewhat but only to the extent that it has become an impractical standard for the purposes of determining voting residence (i.e., with respect to college students, the homeless, and individuals with multiple dwellings)." (Emphasis added.) *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047 (Emphasis added.). See also *Witt v. Berman*, 306 F.3d 1256, 1262 (2d Cir. 2002)

(stating that under certain circumstances the domicile rule for voting residency can give rise to administrative difficulties which has led to a pragmatic application of that rule in New York); *Sims v. Vernon*, Superior Court, Fairfield County, No. 168024 (Dec. 22, 1977) (concluding that an absentee ballot of an individual should be counted as that individual was a bona fide resident of the town in which the ballot was cast.); *Farley v. Louzitis*, Superior Court, New London County, No. 41032 (Oct. 4, 1972) (considering issue of voter residency with respect to college students and stating that “a student, *and a nonstudent as well*, who satisfies the . . . residence requirement, may vote where he resides, without regard to the duration of his anticipated stay or the existence of another residence elsewhere. It is for him alone to say whether his voting interests at the residence he selects exceed his voting interests elsewhere.”) (Emphasis added.).

5. The Commission has previously concluded that “[a]n individual does not, therefore, have to intend to remain at a residence for an indefinite period for that residence to qualify as that individual’s bona fide residence.” *Referral by Manchester Registrars of Voters*, Manchester, File No. 2013-081; (quoting *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047). Rather, the individual only has to possess a present intention to remain at that residence. *Id.*; see also *Maksym v. Board of Election Com’rs of City of Chicago*, Illinois Supreme Court, Docket No. 111773 (January 27, 2011), 2011 WI. 242421 at *8 (“[O]nce residency is established, the test is no longer physical presence but rather abandonment. Indeed, once a person has established residence, he or she can be physically absent from that residence for months or even years without having abandoned it. . . .”).
6. General Statutes § 9-170 reads, in pertinent part:

At any regular or special state election any person may vote who was registered on the last-completed revised registry list of the town in which he offers to vote, and he shall vote in the district in which he was so registered; provided those persons may vote whose names are restored to the list under the provisions of section 9-42 or whose names are added on the last weekday before a regular election under the provisions of section 9-17. Each person so registered shall be permitted to vote if he is a bona fide resident of the town and political subdivision holding the election and has not lost his right by conviction of a disfranchising crime. Any person offering so to vote and being challenged as to his identity or residence shall, before he votes, prove his identity with the person on whose name he offers to vote or his bona fide residence in the town and political subdivision holding the election, as the case may be, by the

testimony, under oath, of at least one other elector or by such other evidence as is acceptable to the moderator.

7. General Statutes § 9-431 reads, in pertinent part:

(a) No person shall be permitted to vote at a primary of a party unless (1) he is on the last-completed enrollment list of such party in the municipality or voting district, as the case may be, or (2) if authorized by the state rules of such party filed pursuant to section 9-374, he is an unaffiliated elector in the municipality or voting district, as the case may be, provided if two or more such parties are holding primaries on the same day in such municipality or voting district, whether for the same offices or different offices, such unaffiliated elector may vote in the primary of only one such party. Such state party rules may authorize unaffiliated electors to vote for some or all offices to be contested at its primaries.

(b) Any such person offering to vote and being challenged as to his identity or residence shall, before he votes, prove by the testimony, under oath, of at least one other elector qualified to vote in such primary or by such other evidence acceptable to the moderator either of the following which are applicable: (1) His identity with the person on whose name he offers to vote or (2) his bona fide residence in the municipality or political subdivision holding the primary, as the case may be. The rules of each party in each municipality shall prescribe whether members of the town committee shall be elected from the municipality at large, in which case any person on the last-completed enrollment list of such party in such municipality shall be eligible to vote in a primary for the election of such committee members, or whether such committee members shall be elected from political subdivisions of such municipality, in which case only persons on the last-completed list of such party in such a political subdivision shall be eligible to vote in a primary for the election of such committee members from such political subdivision; provided no town committee in any municipality shall be elected both at large and from political subdivisions.

(c) Any citizen who has not yet attained the age of eighteen years but who will have attained the age of eighteen years on or before the day of

a regular election, and who: (1) Is otherwise qualified to be an elector, and (2) has applied for admission as an elector, may vote at a primary of a party held for such regular election pursuant to subsections (a) and (b) of this section.

Commission Investigation

8. The relevant period alleged in the Complaint is from on or about August 2, 2012 through September 10, 2013. During this time, Mr. DeJesus was registered at the following addresses:

Dates	Address
8/2/12 - 7/24/13	946 Noble Ave.
7/24/13 - 9/10/13	75 Richardson St.
9/10/13 - 1/16/14	75 Ashley St.

9. After 1/16/14 and to the present, Mr. DeJesus has been a bona fide resident at an address on Mencil Cir., which he owns and occupies with Ms. Marin.

Response

10. The Respondent asserted that he believed that he could establish a bona fide residence for voting purposes at the commercial location at which he was the manager of Genesis Motorworks, 946 Noble Ave. He maintains that subsequent to his divorce his life was peripatetic and that he was without a fixed and permanent bona fide residence and/or domicile to call his own.
11. Mr. DeJesus did not deny that he only submitted a new VRA, this time at 75 Richardson, when the Complainants raised the question of the 946 Noble Ave. address being outside of the Common Council district for which Mr. DeJesus was running in the 2013 Democratic Primary (Mr. DeJesus was running for the 136th Common Council District, but 946 Noble Ave is located in the 137th).
12. However, Mr. DeJesus asserted that while it was his intent to rent and occupy the property at 75 Richardson St., he was unable to secure the lease. He did not assert that he actually ever lived there, but rather that he found another place nearby to rent at 75 Ashley St.

1876 Noble Ave. and 302 Huntington Ave

13. During the relevant period alleged by the Complainants, Mr. DeJesus' alleged girlfriend, Ms. Marin, lived first at 1876 Noble Ave., then at 302 Huntington Road.
14. 1876 Noble Ave is located within the 4th Congressional District, the 23rd State Senate District, the 126th House District and the 138th Local District (for town committee and Common Council).
15. 302 Huntington Road is located within the 4th Congressional District, the 23rd State Senate District, the 128th House District and the 137th Local District (for town committee and Common Council).
16. The Complainants alleged here, without support, that Mr. DeJesus lived with Ms. Marin during the relevant period.
17. 1876 Noble Avenue was the registered address of Ms. Marin from approximately March 3, 2007 through October 24, 2012, but she moved to and registered at a property on 302 Huntington Rd. thereafter.
18. Background checks on Mr. DeJesus revealed no records associating him with either address. However, Mr. DeJesus does not deny that he and Ms. Marin were in a relationship at the time or that he spent substantial time at her residences during the relevant period.

946 Noble Ave

19. 946 Noble Ave is located within the 4th Congressional District, the 23rd State Senate District, the 128th House District and the 137th Local District (for town committee and Common Council).
20. 946 Noble Ave., at which Mr. DeJesus was registered from 8/2/12 - 7/24/13 is a commercial single floor property that houses Genesis Motorworks, an auto garage. Mr. DeJesus is employed by Genesis as a manager of the garage.
21. About six months after the filing of the instant Complaint, and seven months after Mr. DeJesus changed his registered address to 75 Richardson St., Commission investigators visited the site, a single floor building. Investigators were permitted to explore the entire

building, which is modest in size and consists of a waiting area, counter, and two service bays.

22. In the investigators' review of the inside of the building, they did not witness any area that was set up as a sleeping quarters, nor any area that appeared to be reasonably suited to this use. They interviewed employees at Genesis Motorworks and none of them could recall Mr. DeJesus sleeping at the location overnight.
23. The Investigation did reveal that it appeared to be the habit of Mr. DeJesus to use 946 Noble Ave. as his official address on many government documents. At least two property records of residential homes owned by Mr. DeJesus list 946 Noble as his address.
24. The Commission also points out that the evidence shows that Mr. DeJesus was a first time voter in Connecticut as of August 2, 2012, when he established his registration at 946 Noble Ave.

75 Richardson St.

25. The 75 Richardson St. and 75 Ashley St. addresses are located within the 4th Congressional District, the 23rd State Senate District, the 126th House District and the 136th Local District.
26. Around the time that the Complainants, Mr. DeJesus' opponents in the Democratic Party Primary for the 136th district seat on the City Council, began to publicly protest that he was not a bona fide resident in the district, Mr. DeJesus submitted a new VRA for 75 Richardson St. a residential multifamily within the district.
27. Mr. DeJesus asserted here that while it was his intent to rent and occupy the property at 75 Richardson St., he was unable to secure the lease. He did not assert that he actually ever lived there.
28. Commission investigators secured an affidavit from the owner of 75 Richardson St. confirming that Mr. DeJesus did not end up occupying any of the units in the building.
29. However, no votes were actually cast from that address, as Mr. DeJesus filled out a new registration for 75 Ashley St. at the polling place for the September 10, 2013 primary utilizing the inter-town registration change provisions in General Statutes § 9-42.

75 Ashley St.

30. This address was briefly utilized by Mr. DeJesus during the relevant period here.
31. Mr. DeJesus voted in the 9/10/13 Municipal Primary and the 11/5/13 Municipal General Election while registered at this address (he later registered at 63 Ashely St in January 2014, where he remained from approximately a year, before moving to 63 Mencil Cir., where he remains to date).
32. As stated above, beyond a blanket allegation that Mr. DeJesus lived at 1876 Noble Ave, the Complainants did not explicitly allege (and/or provide evidence) that Mr. DeJesus lacked bona fide residence at 75 Ashley St. or any other address beyond the ones explored above. Accordingly, the Commission investigation did not extend to this address.

Other Properties Associated with Respondent During the Period

33. During the relevant period, the investigation revealed that Mr. DeJesus was the owner of two Bridgeport properties, 275 Texas Ave., Unit #173 and the Mencil Cir. property, both of which were purchased on or about June 12, 2012 and both of which are located in the same neighborhood, an approximately 13 minute walk away from each other.
34. Mr. DeJesus is currently registered to vote at the Mencil Cir. property and has been since February 2015.

Analysis

35. Turning to the question of the Respondent's liability here, the evidence in this matter supports a finding that it is more likely than not that 946 Noble Ave was not a valid bona fide residence address.
36. While a commercial property is not legally incapable of sustaining a valid bona fide residence claim *per se*, the evidence here does not support a finding that Mr. DeJesus lived in this small commercial garage for a year without any discernable place to sleep, cook, and/or bathe.
37. This is especially unavailing considering that Mr. DeJesus was the owner in fee of two condominium units, 275 Texas Ave., Unit #173 and the Mencil Cir. property during that period.

38. The Commission finds that it is more likely than not that Mr. DeJesus registered at this address as it was his habit to use that address for all "official" paperwork. He followed that pattern, possibly without realizing the gravity of this act in this instance.
39. Accordingly the Commission concludes that the Respondent violated General Statutes § 9-7b (a) (2) (C), once when he voted in the August 14, 2012 Democratic Party Primary and once when he voted in the November 6, 2012 General Election.

Penalty Considerations

40. General Statutes § 9-7b (a) (2) (C) provides that the Commission may assess a civil penalty of two thousand dollars per offense against any (C) two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum.
41. Pursuant to Regulations of Connecticut State Agencies § 9-7b-48, in determining the amount of a civil penalty, the Commission shall consider, among other mitigating and aggravating factors:
 - (1) the gravity of the act or omission;
 - (2) the amount necessary to insure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions; and
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
42. Casting a ballot from an address for which you do not maintain a valid bona fide residence is a serious matter. And the evidence maintained during the investigation here establishes that it is more likely than not that during the relevant period from 8/2/12 to 7/24/13, the Respondent was unable to establish 946 Noble Ave as his bona fide residence.
43. However, there does not appear to be any dispute (both by the Complainants and in the evidence) that the Respondent maintained a presence in Bridgeport and more likely qualified as a bona fide resident at his girlfriend Miriam Marin's residences at 1876 Noble Ave, and/or 302 Huntington.
44. Moreover, for the 2012 state Democratic Party Primary, the only difference between the ballot for 1876 Noble Ave, and 946 Noble Ave, was the House district in the General Assembly. All other races on the ballot were the same. And since there was no primary

for the House district on the ballot that Mr. DeJesus executed, he did not vote in any races in the Primary for which he was not already eligible.

45. For the General Election, Ms. Marin (and, according to the Complainants, Mr. DeJesus) already lived and was registered at 302 Huntington Rd., which voted the same ballot as the address at which Mr. DeJesus was registered (946 Noble Ave.). As such, even assuming the allegations to be true here, he marked the correct ballot in the General Election, just from the wrong registered address.
46. The facts of this matter do not establish a case for bad faith. Mr. DeJesus does not appear to have understood the bona fide residence rules at the time he registered to vote—for the first time as a CT voter. The facts found in this matter did not show any political or pecuniary benefit to registering at the 946 Noble Ave.²
47. The Respondent has no prior history in this area.
48. Where an individual has registered in the wrong location, but the candidates and/or questions on the ballot are the same in each location, the Commission has declined to issue a civil penalty. See, e.g., *In the Matter of a Complaint of Andre Grandbois*, Plainville File No. 2015-156 (Respondent registered at work address, which is in same town and district as home address). This is the situation that appears to apply here. Like in *Grandbois*, the ballots were identical.
49. As in *Grandbois*, this is the first case of this kind involving Mr. DeJesus and the evidence does not suggest bad faith.
50. In consideration of the unique facts of this case, as well as the aforesaid aggravating and mitigating circumstances, the Commission concludes, and the Respondent agrees, that a civil penalty is unnecessary here.
51. The Respondent admits all jurisdictional facts and agrees 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

² Indeed, Mr. DeJesus attempted to run for Common Council in 2013 in a totally different district, believing such an out-of-district run to be legal. He registered at 75 Richardson on 7/23/13 and then later at 75 Ashley partially because those residences were in the Common Council district for which he ran (he discovered later that while state law allowed an out-of-district run for a municipal body, the Bridgeport Charter did not).


receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.

52. The Respondent waives:
 - 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.
53. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if the same becomes necessary.
54. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings pertaining to this matter.

ORDER

That the Richard DeJesus will henceforth strictly comply with those General Statutes in Title 9 concerning the eligibility requirements for registering and voting in Connecticut.

The Respondents:


Richard DeJesus
Bridgeport, CT


For the State of Connecticut:

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

Dated:

Dated:

Adopted this 3 day of April of 2019 at Hartford, Connecticut


Anthony J. Calabro, Chair
By Order of the Commission