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ENFORCEMENT COMMISSION

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Referral of the New Haven City Clerk

File No. 2013-149A

AGREEMENT CONTAINING A CONSENT ORDER

The Agreement, by an between Linda G. Whitley, of the City of New Haven, 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:

ALLEGATIONS

1. The Referral in this matter was filed by the New Haven City Clerk, Ronald Smith. The Referral states that the Referring Official had, himself, received a complaint from a resident concerning voting in the 8th Ward of the City of New Haven. The Referral contains three separate allegations.
2. First, the Referring Official contends that Linda G. Whitley (hereinafter the "Respondent") "picked up the actual ballots from voters at 60 Warren St." within the City of New Haven's 8th Ward, during the 2013 municipal election, without legal authorization to do so.
3. The Referral also alleges that the Respondent took possession of another voter's incomplete absentee ballot, marked it with additional votes, and mailed it to be counted.¹
4. Finally, the Referral contains an allegation that the Respondent was unlawfully present while voters were completing their absentee ballots.¹

THE LAW

5. It is a violation of Connecticut's election laws to take possession of an absentee ballot, unless specifically authorized to do so, as noted in General Statutes § 9-140b (d), which states:

(d) No person shall have in his possession any official absentee ballot or ballot envelope for use at any primary, election or referendum except the applicant to whom it was issued, the Secretary of the State or his or her authorized agents, any official printer of absentee ballot forms and his designated carriers, the

¹ The allegations referenced in paragraphs 3 and 4 shall be addressed in a separate document.

United States Postal Service, any other carrier, courier or messenger service recognized and approved by the Secretary of the State, any person authorized by a municipal clerk to receive and process official absentee ballot forms on behalf of the municipal clerk, any authorized primary, election or referendum official or any other person authorized by any provision of the general statutes to possess a ballot or ballot envelope.

6. The State Elections Enforcement Commission (hereinafter the "Commission") is empowered to levy civil penalties for violations of the absentee ballot provisions contained in Chapter 145 of the General Statutes. See General Statutes § 9-7b (a), which provides, in pertinent part:

The State Elections Enforcement Commission shall have the following duties and powers:

.....

(2) To levy a civil penalty not to exceed (A) two thousand dollars per offense against any person the commission finds to be in violation of any provision of chapter 145[.]

7. Moreover, certain violations of Title Nine of the General Statutes concerning absentee voting can subject an individual to criminal liability. See General Statutes § 9-359, which provides.

Any (1) person who executes an absentee ballot for the purpose of informing any other person how he votes, or procures any absentee ballot to be prepared for such purpose, (2) municipal clerk or moderator, elector appointed to count any absentee ballot or other person who wilfully attempts to ascertain how any elector marked his absentee ballot or how it was cast, (3) person who unlawfully opens or fills out, except as provided in section 9-140a with respect to a person unable to write, any elector's absentee ballot signed in blank, (4) person designated under section 9-140a who executes an absentee ballot contrary to the elector's wishes, or (5) person who wilfully violates any provision of chapter 145, shall be guilty of a class D felony.

8. The Commission is empowered to refer matters to the Chief State's Attorney relating to criminal violations of Connecticut's Election Laws, as noted in General Statutes § 9-7b (a), which provides in relevant part:

The State Elections Enforcement Commission shall have the following duties and powers:

.....

(8) To refer to the Chief State's Attorney evidence bearing upon violation of any provision of chapter 149, 151 to 153, inclusive, 155, 156 or 157 or any other provision of the general statutes pertaining to or relating to any such election, primary or referendum;

Conn. Gen. Stat. Ann. § 9-7b (West)

CONCLUSIONS

9. The Respondent acknowledges that she took possession of six absentee ballots, after they had been completed. Those were the absentee ballots of William Darden, Heather Smith, Scott Smith, Olivia Lewis, Christian Rainier, and Thurman Hines (hereinafter "The Voters").
10. The Respondent was not specifically authorized to be in possession of any of The Voters' absentee ballots pursuant to General Statutes § 9-140b.
11. Possessing another elector's absentee ballot, regardless of the motivation, is a violation of General Statutes § 9-140b.
12. Taking possession of another elector's absentee ballot, in violation of General Statutes § 9-140b, is a serious offense. *See, In the Matter of a Complaint by Jose L Morales, Waterbury, File No. 2012-119; In the Matter of a Complaint by Lori A. Kabach, Danbury Town Clerk, Danbury, CT, File No. 2009-145; In the Matter of a Complaint by David F. Walsh, Stafford Springs, File No. 2007-423.*
13. The Respondent admits all jurisdictional facts and agree that this Agreement and Order shall have the same force and effect as a final decision and Order entered into after a full hearing and shall become final when adopted by the Commission.



14. 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.

15. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her concerning this matter.

16. 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.

ORDER

IT IS HEREBY ORDERED THAT the Respondent Linda G. Whitley shall pay a total civil penalty of six thousand dollars (\$6,000.00) no later than April 8, 2016.

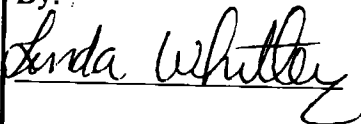
IT IS FURTHER ORDERED THAT, based upon demonstrated extreme financial hardship, five thousand dollars (\$5,000.00) of the aforementioned civil penalty shall be suspended.

IT IS FURTHER ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-140b.

The Respondent

For the State of Connecticut

By:



By:




Linda G. Whitley
60 Warren Street
Apt. 33-B
New Haven, CT 06511

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 06106

Dated: 4/16/2016

Dated: 5/1/16

Adopted this 11 day of MAY, 2016 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission