

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Catherine Magaldi-Lewis, Andover

File No. 2014-071

FINDINGS AND CONCLUSIONS

The Complaint in this matter concerns the alleged testing of ballot tabulators by a Registrar of Voters without the presence of the other Registrar.¹ As detailed hereinafter, it is the Commission's determination that this matter should be dismissed.

1. At all times relevant hereto, Catherine Palazzi was the Republican Registrar of Voters in the Town of Andover.
2. At all times relevant hereto, Catherine Magaldi-Lewis was the Democratic Registrar of Voters in the Town of Andover.
3. The Complaint in this matter was filed by Catherine Magaldi-Lewis, the Democratic Registrar of Voters in the Town of Andover against her fellow Registrar, Catherine Palazzi. The Complaint contained 13 different allegations, most of which, even if true, would not amount to a violation within the jurisdiction of the Commission.
4. However, among the allegations was a claim that in October of 2013, Ms. Palazzi performed the testing of the ballot tabulators without the presence of the Ms. Magaldi-Lewis.
5. General Statutes § 9-247 provides, in pertinent part:

The registrars of voters shall, before the day of the election, cause test ballots to be inserted in each tabulator to ensure that each tabulator is prepared and read and cause each other voting system approved by the Secretary of the State for use in the election, including, but not limited to, voting devices equipped for individuals with disabilities that comply with the provisions of the Help America Vote Act, P.L. 107-25, as amended from time to time, to be put in order in every way and set and adjust the same so that it shall be ready for use in voting when delivered at the polling place. Such registrars of voters shall cause each voting system to be

¹ 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.

in order and set and adjusted, to be delivered at the polling place, together with all necessary furniture and appliances that go with the same, at the room where the election is to be held, and to be tested and operable not later than one hour prior to the opening of the polling place.

6. Furthermore, section 9-242a-5 of the Regulations of Connecticut State Agencies provides:

Beginning as soon as ballots and ballot cards are available and not later than the tenth day before the election or primary, the registrars shall conduct ballot card testing of every programmed memory card with samples of each different ballot card printed for the election or primary. The purpose of the test is to ensure that (1) ballots are printed properly, (2) timing, diagnostic and card identification marks are correctly located on the ballot, (3) memory cards are programmed with accurate information, and (4) the voting tabulators tally ballots correctly. The Secretary of the State shall prescribe the procedure to (A) test unvoted ballot cards, (B) test fully voted ballot cards, and (C) count a series of test ballots. All those present, including the registrars or their designees, the technician certified under section 9-242-13 of the Regulations of Connecticut State Agencies, if any, the town chairmen, candidates and watchers, shall certify (i) as to the numbers of the voting tabulators, (ii) that the voting tabulators have been test-voted with samples of the ballots and found to be working properly, (iii) that the candidate, question and public counters are set back to zero, (iv) as to the numbers registered on the protective counters of the tabulator, if provided, and (v) as to the numbers on the seals sealing the memory cards into the voting tabulator. This certificate and the test ballots shall be filed with the municipal clerk and kept for sixty days after the election. Each voting tabulator shall be sealed and placed in its carrying case together with the ender card and sealed in its carrying case. The voting tabulator in its carrying case and any spare tabulators shall be delivered by the registrars to the central secure location designated by the registrars meeting such specifications as the secretary may prescribe, until delivery of such voting tabulators to the election officials as described in 9-242a-8 of the Regulations of Connecticut State Agencies. The registrars shall immediately secure the keys to the voting tabulator. Not later than eight o'clock p.m. of the day before the election, the moderators shall appear in the office of the registrars of voters to receive checklists, the voting tabulator seal number as reported on the report of pre-election testing, and supplies necessary to conduct the election. In addition, the registrars of voters shall deliver ballots to the election officials as described in 9-242a-8 of the Regulations of Connecticut State Agencies

7. The Commission has further stated, with regard to tabulator testing:

the Commission holds as an initial matter that per General Statutes § 9-247 and Section 9-242a-5 of the Regulations of Connecticut State Agencies tabulator testing needs to involve the presence of both registrars or their designees. This does not mean that both of the registrars (or their designees) need to actually conduct the testing, but generally that the testing needs to be coordinated between

the registrars and that both should have a presence, either personally or by a designee, while the testing is taking place.

In the Matter of a Complaint by Marilyn Higgins, Hampton, File No. 2013-105.

8. It is clear from the response to this Complaint as well as the two others filed by Ms. Magaldi-Lewis against Ms. Palazzi, that there was a breakdown in communication between the two Registrars in the Town of Andover.
9. Ms. Magaldi-Lewis alleges that Ms. Palazzi conducted the testing of the tabulators without her knowledge.
10. Respondent Palazzi, noted, however, that the “testing” of the tabulators was not the statutory testing prescribed by the statute, but rather regular cleaning and maintenance of the machines. The process of such cleaning and maintenance did not involve causing “test ballots to be inserted in each tabulator to ensure that each tabulator is prepared and read and cause each other voting system approved by the Secretary of the State for use in the election.” General Statutes § 9-247.
11. In fact, as the Commission has independently confirmed, there was no municipal election or referendum in the Town of Andover in November of 2013.² Accordingly, there could not have been any “test ballot” to feed into the tabulator, as there was no ballot printed by the Secretary of the State to test.
12. General Statutes § 9-247a prohibits certain individuals (i.e., immediate family members of candidates) from maintaining tabulators, but there is no corresponding statute requiring that both Registrars of Voters be physically present for such maintenance.
13. Accordingly, this Complaint should be dismissed.

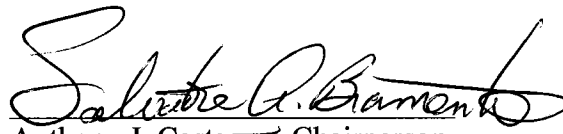
² The Town of Andover holds its municipal elections in May.

ORDER

The following Order is recommended on the basis of the aforementioned findings and conclusions:

This matter is dismissed.

Adopted this 4th day of December, 2016 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson

By Order of the Commission

