

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint by Robert H. Kalechman,
Simsbury

File No. 2014-113

FINDINGS AND CONCLUSIONS

Complainant Robert H. Kalechman brings this Complaint pursuant to Connecticut General Statutes § 9-7b. Complainant alleged that the Simsbury Town Clerk Carolyn D. Keily violated election laws pertaining to his petitioning to appear on the ballot as a candidate for State Representative for the 16th District at the November 4, 2014 election. Additionally, Complainant alleged that the Simsbury Registrars of Voters, Karen E. Cortes and Carolyn Diachenko, violated election laws pertaining to production of a voter registry list prior to the election. Finally, Complainant alleges that the Town of Simsbury, by its conduct towards Complainant as a petitioning candidate, violated the consent order of the Commission in File No. 2008-072.

After the investigation of the Complainant's complaint, the Commission makes the following findings and conclusions:

1. At all times relevant to this complaint Marge Diachenko was the Democratic Registrar of voters and Karen E. Cortes was the Simsbury Republican Registrar of Voters. Further, at all times relevant to this complaint Carolyn D. Keily was the Simsbury Town Clerk.
2. All three of the aforementioned Simsbury town officials were represented in this matter by Simsbury Town Attorney Robert M. DeCrescenzo who provided a written response to this complaint that included supporting documents and witness affidavits.
3. Complainant appeared on the ballot for the November 4, 2014 election in the Town of Simsbury as a petitioning candidate for State Representative for the 16th District.
4. Complainant alleged that:
 - (1) The Town Clerk did not provide Complainant with an adequate count of petition signatures that were accepted and rejected by her office, or the reasons for such rejection, pertaining his petitions to appear on the November 4, 2014 ballot as a candidate for General Assembly for the 16th District;
 - (2) The Registrars of Voters attempted to charge him for each page of the voter registry lists that he requested as a unaffiliated candidate in the amount of approximately \$77.00, when those same registry lists are available to major party candidates at no charge; and,

(3) The Town of Simsbury, by its conduct towards Complainant as a petitioning candidate, violated a consent order with the State Elections Enforcement Commission pertaining to Commission File No. 2008-072.

5. General Statutes § 9-39, provides:

The registrars of voters of each municipality shall print copies of the final registry list for distribution in such municipality and in all the voting districts located therein. ***The registrars shall, upon request, produce for any candidate for election the final registry list for each voting district for which such person is a candidate*** and shall maintain such list, either on paper or in electronic format, for a period of two years.

6. General Statutes § 9-453k, provides in pertinent part:

...

(c) The town clerk or Secretary of the State shall forthwith give to each circulator submitting a page or pages of a nominating petition a receipt indicating the number of such pages so submitted and the date upon which such pages were submitted.

(d) Such town clerk shall certify on each such page the date upon which it was submitted to the town clerk by the circulator or the Secretary of the State and the number of names of electors on such petition page, which names were on the registry list last-completed or are names of persons admitted as electors since the completion of such list. ***In the checking of signatures on such nominating petition pages, the town clerk shall reject any name if such name is not the name of an elector as specified above. Such rejection shall be indicated by placing a mark in a manner prescribed by the Secretary of the State before the name so rejected.*** The town clerk shall not reject any name for which the street address on the petition is different from the street address on the registry list, if (1) such person is eligible to vote for the candidate or candidates named in the petition, and (2) the person's date of birth, as shown on the petition page, is the same as the date of birth on the person's registration record. Such clerk may place a check mark before each name appearing on such registry list or each name of a person admitted as an elector since the completion of such list, but shall place no other mark on such page except as provided in this section. [Emphasis added.]

7. Complainant's previous matter *Complaint by Robert H. Kalechman*, File No. 2008-072, Simsbury, resulted in a consent order against Carolyn D. Keily, as Simsbury Town Clerk, which follows:

IT IS HEREBY ORDERED THAT the Respondent shall henceforth comply with the requirements for issuing a receipt to each circulator submitting a page or pages of a nominating petition indicating the number of such pages so submitted and the date upon which such pages were submitted pursuant to General Statutes § 9-453k(c).

8. Allegation One

The Town Clerk did not provide Complainant with an adequate count of petition signatures that were accepted and rejected by her office, or the reasons for such rejection, pertaining his petitions to appear on the November 4, 2014 ballot as a candidate for General Assembly for the 16th District.

9. After investigation, the Commission finds credible evidence that Complainant's petition pages were reviewed by the offices of the Simsbury Town Clerk and Registrars of Voters and marked such pages to indicate rejected signatures. Further, the Commission finds that these petition pages were forwarded to the Office of the Secretary of the State (hereinafter "SOTS") and Complainant was subsequently qualified as a petitioning candidate as of July 7, 2014.
10. General Statutes § 9-453k (d) requires that: *In the checking of signatures on such nominating petition pages, the town clerk shall reject any name if such name is not the name of an elector as specified above. Such rejection shall be indicated by placing a mark in a manner prescribed by the Secretary of the State before the name so rejected.* The Commission concludes that § 9-453k (d) does *not* require that the petitioner receive notice of any names rejected on a petition page or require explanations for specific rejected signatures be provided to the petitioner.
11. The Commission finds, for reasons detailed in paragraphs 9 and 10 above, that Respondent Keily and the Simsbury Town Clerk's office processed Complainant's petition pages and forwarded them to SOTS. The Commission further finds that Complainant's allegation that Respondent Keily, or her office, was required by General Statutes § 9-453k (d) to provide an explanation or notice regarding rejected petition signatures, is not supported by that statute and such a requirement is not otherwise provided for in election laws. The Commission concludes therefore that Allegation One was not supported, in this instance, by the facts or the law and should be dismissed.

12. Allegation Two

The Registrars of Voters attempted to charge him for each page of the voter registry lists that he requested as an unaffiliated candidate in the amount of approximately \$77.00, when those same registry lists are available to major party candidates at no charge.

13. After investigation, the Commission finds that the Simsbury Registrar of Voters office provided a copy of the relevant voter registry list to Complainant. Further, the Commission finds that the list was approximately 300 pages and was left at Simsbury Town Hall for Complainant to pick-up in person as its size made mailing the list impractical. Finally, the Commission finds that the evidence does *not* support the claim that Respondent Diachenko, Respondent Cortes, or their office requested or received any payment from Complainant for the aforementioned list.

14. General Statutes § 9-39 requires that: *The registrars shall, upon request, produce for any candidate for election the final registry list for each voting district for which such person is a candidate.* The Commission finds through the Simsbury Registrars' of Voters office provided Complainant with a voter registry list pursuant to § 9-39 and that Complainant's allegation that he was charged for such list remained unsubstantiated after investigation. The Commission concludes therefore that Respondents Diachenko and Cortes and the Simsbury Registrars of Voters office did *not* violate § 9-39 as alleged and therefore Allegation Two should be dismissed.

15. Allegation Three

The Town of Simsbury, by its conduct towards Complainant as a petitioning candidate, is violating a consent order it agreed to in Commission File No. 2008-072.

16. The Commission finds, as detailed in paragraph 7 above, Respondent was under a Commission order to comply with General Statutes § 9-453k(c). Specifically, Respondent was ordered to "...comply with the requirements for issuing a receipt to each circulator submitting a page or pages of a nominating petition indicating the number of such pages so submitted and the date upon which such pages were submitted." The Commission pursuant to § 9-7b (18) (b) may seek to compel compliance upon a Respondent's failure to comply with a prior order.

17. After investigation, the Commission finds that Respondent Keily issued receipts that indicated the number of pages submitted by Complainant and the date upon which such pages were submitted. Specifically, copies of such receipts were provided by the Town Clerk's office in response to this complaint and indicate that such receipts were issued on June 24, 2014 and June 25, 2014 indicating the number of petition pages received respectively.

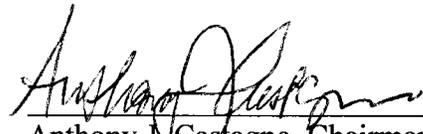
18. The Commission finds, for reasons detailed in paragraphs 16 and 17 above, that Respondent Keily and the Town of Simsbury provided receipts for petition pages in this instance as required by General Statutes § 9-453k(c) and the Commission order pertaining to its File No. 2008-072. The Commission concludes that Respondent Keily and the Town of Simsbury did *not* violate a Commission order as alleged by Complainant; that the Commission need not seek to enforce the same pursuant to § 9-7b (18) (b); and that therefore Allegation Three should be dismissed.
19. The Commission concludes for the reasons detailed herein that no violation of election laws as alleged by Complainant occurred under the facts and circumstances in this instance as detailed herein and that allegations against Respondents Keily, Diachenko and Cortes, and/or their offices and agents remained unsubstantiated after investigation and therefore that this Complaint should be dismissed.

ORDER

The following Order is recommended on the basis of the aforementioned finding:

That the Complaint be dismissed.

Adopted this 13th day of January of 2015 at Hartford, Connecticut


Anthony J. Castagno, Chairman
By Order of the Commission