

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Bernandus Van Gool, Old Lyme

File No. 2014-183

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Lawrence Peterson, of the Town of Old Lyme, County of New London, 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. At all times relevant to the instant Complaint, Respondent Lawrence Peterson was the moderator at the November 4, 2014 General Election at the District One polling place in the Town of Old Lyme.
2. The Complainant alleges that he went to vote at the November 4, 2014 General Election at the District One polling place in the Town of Old Lyme and that the moderator would not allow him to vote without showing identification.
3. More specifically, the Complainant alleged that he had identification on his person, but wished to exercise the option of not using his ID. He was a long time voter in town and his name did not appear with an asterisk. He alleges that the Respondent moderator would not allow him to vote without ID and instead only offered him a provisional ballot. He alleged that at some point he decided to show the Respondent moderator his driver's license, but the Respondent moderator still had him fill out a provisional ballot instead of a regular ballot.
4. General Statutes § 9-261 reads, in pertinent part:

(a) In each primary, election or referendum, when an elector has entered the polling place, the elector shall announce the elector's street address, if any, and the elector's name to the official checker or checkers in a tone sufficiently loud and clear as to enable all the election officials present to hear the same. Each elector who registered to vote by mail for the first time on or after January 1, 2003, and has a "mark" next to the

¹ This Agreement Containing Consent Order addresses those portions of the Complainant's 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.

elector's name on the official registry list, as required by section 9-23r, shall present to the official checker or checkers, before the elector votes, either a current and valid photo identification that shows the elector's name and address or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the elector. *Each other elector shall (1) present to the official checker or checkers the elector's Social Security card or any other preprinted form of identification which shows the elector's name and either the elector's address, signature or photograph, or (2) on a form prescribed by the Secretary of the State, write the elector's residential address and date of birth, print the elector's name and sign a statement under penalty of false statement that the elector is the elector whose name appears on the official checklist. Such form shall clearly state the penalty of false statement.* A separate form shall be used for each elector. If the elector presents a preprinted form of identification under subdivision (1) of this subsection, the official checker or checkers shall check the name of such elector on the official checklist, manually on paper or electronically. If the elector completes the form under subdivision (2) of this subsection, the registrar of voters or the assistant registrar of voters, as the case may be, shall examine the information on such form and either instruct the official checker or checkers to check the name of such elector on the official checklist, manually on paper or electronically, or notify the elector that the form is incomplete or inaccurate.

...

(e) If not challenged by anyone lawfully present in the polling place, the elector shall be permitted to pass to the separated area to receive the ballot. The elector shall give any receipt the elector has received to a ballot clerk who shall give the elector a ballot to vote only in the primary of the party specified by the receipt. The elector shall be permitted into the voting booth area, and shall then register his or her vote in secret. . . . (Emphasis added.)

5. The Respondent moderator asserted in response to the instant Complaint, as follows:

On November 4, 2014 I was serving as Election Moderator at Cross Lane Firehouse in Old Lyme, Connecticut. At approximately 4:45 PM the above complainant arrived at the polling place and proceeded to the Official Checker table. The name and address he gave did appear

on the official voter list. When the checker asked for identification, he repeatedly refused to produce it stating he didn't have to show identification in order to vote. The checker asked me to assist Mr. Van Gool.

I asked him to show his identification and he again refused. He told me he had identification with him but was not going to show it. Though he said he was a resident of Old Lyme, Mr. Van Gool was a stranger to me, and without proof of identity, I suspected he was attempting to disrupt the election. My thought at the time was, since he was so adamantly refusing to produce ID, maybe he had been allowed to vote earlier the same day in another town or several other towns. My obligation was to preserve the integrity of the election.

When asked to show me something to support why he thought ID was not required, he led me to a poster in our vestibule that listed some identification requirements but, in my opinion, did not support his claim of no ID required. I wanted to find a way to allow him to vote legitimately and asked him if he wanted to complete a Provisional Ballot. I explained this type of ballot would allow a vote for the federal office(s) only. First he refused but subsequently agreed to complete a Provisional Ballot. He accompanied me to a table where I gave him the Provisional Ballot and he proceeded to complete it. The completed ballot was placed in the appropriate envelope and sealed.

While documenting the incident in my Moderator's Diary I asked Mr. Van Gool for his address and to spell his name. To my surprise he voluntarily handed me his drivers license and said, "it's all right here". After completing the diary entry, I asked Mr. Van Gool to read what I had written and to agree to its accuracy. He read and agreed with what I had written and signed my diary entry. Without further ado he then stood up and left the polling place.

6. The Commission investigation confirmed that the Complainant's provisional ballot was reviewed and accepted. The moderator's diary supported the Respondent moderator's account.
7. Considering the aforesaid, there is no material fact in dispute here. As such, even assuming the Respondent moderator's above statement to be true, the Commission concludes that the

law is clear that the Respondent moderator should have offered the Complainant the opportunity to vote by affidavit and vote a full ballot instead of just a provisional ballot with only federal offices.

8. The evidence establishes that the Complainant was a long time voter who did not have an asterisk next to his name. As such, affidavit voting was an acceptable option for him.
9. Furthermore, the parties here both admit that at some point the Complainant handed over his actual driver's license, which is certainly sufficient proof of identification. Even if it occurred after the Complainant executed the provisional ballot, the Respondent moderator should have immediately offered him the opportunity to spoil the provisional and execute a full ballot.
10. Accordingly, the Commission concludes that the Respondent moderator violated General Statutes § 9-261 twice: first for failing to offer the Complainant the opportunity to utilize the affidavit and again for failing to give the Respondent a full ballot despite having been provided a driver's license.
11. The maximum civil penalty here is \$2,000 per violation, or \$4,000. As enumerated in § 9-7b-48 of the Regulations of Connecticut State Agencies:

In its determination of the amount of the civil penalty to be imposed, the Commission shall consider, among other mitigating or aggravating circumstances:

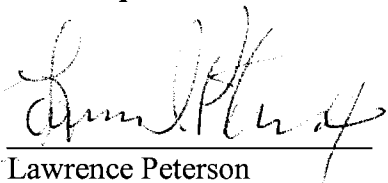
- (1) the gravity of the act or omission;
 - (2) the amount necessary to insure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions; and
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
12. It is clear from his statement that at the time, the Respondent moderator did not understand the finer points of voter identification. While he rescued the situation somewhat by offering the provisional ballot and at least allowing the Complainant to vote for federal offices, it does not change the fact that the Complainant was denied his full franchise to vote in a year when all of the constitutional offices and the full General Assembly were on the ballot.
 13. The Complainant was still disenfranchised by the Respondent moderator's mistake. As such, this is a serious offense. In addition to the law being clear in this instance, this Respondent moderator would have learned about voter identification in his required moderator certification training. Moreover, the Moderator's Handbook, which should be on hand in every polling place, contains all of the relevant voter identification rules.

14. The Respondent moderator has no previous history in this area.
15. The Commission does not believe that the Respondent moderator acted in bad faith in denying the Complainant his full franchise. He seemed to genuinely misunderstand the ID laws. He seemed clearly to be following the federal identification rules for those voters who registered by mail who had not yet provided the enhanced voter identification required for completing the registration.
16. However, his statement that "Mr. Van Gool was a stranger to me, and without proof of identity, I suspected he was attempting to disrupt the election" is not a defense to his actions. A moderator's responsibility to keep order in a polling place does not extend to creative reinterpretations of the voter identification and provisional ballot rules.
17. Here, as stated above, the Commission did not find evidence suggesting that the Respondent moderator failed in bad faith. Nonetheless, his failure to follow his training resulted in a disenfranchisement. As such, a civil penalty is warranted here. In consideration of the aforesaid, the Commission will agree to settle the matter in exchange for a civil penalty of \$200, along with the Respondent's agreement to henceforth strictly comply with the prescriptions of General Statutes § 9-261.
18. 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.
19. 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.

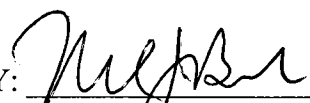
ORDER

IT IS HEREBY ORDERED that the Respondent Lawrence Peterson shall remit a civil penalty of \$200 and henceforth strictly comply with the requirements of General Statutes § 9-261.

The Respondent:


Lawrence Peterson


For the State of Connecticut:

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

Dated: 03/10/2017

Dated: 3/13/17

Adopted this 22nd day of March of 2017 at Hartford, Connecticut


Anthony Castagno, Chairman
By Order of the Commission

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MAR 13 2017

ENFORCEMENT COMMISSION