

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Ashley M. Gillece,
Pawcatuck (Stonington)

File No. 2014-206

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between George A. Crouse, Robert R. Simmons and Michael J. Spellman (hereinafter "Respondents"), Town of Stonington, 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. Complainant brought this complaint pursuant to General Statutes §9-7b, alleging that the Town of Stonington Board of Selectman appointed an ineligible individual to fill a vacancy on the Board of Selectman in violation of General Statutes § 9-59.
2. Specifically, Complainant alleged that the aforementioned appointment of the selectman violated General Statutes § 9-59 because Respondents Crouse and Simmons appointed Respondent Spellman to the Board of Selectman as an "unaffiliated" (Third) Selectman. Complainant alleges that Respondent Spellman was barred from such appointment by his recent application for erasure from the Stonington voter registry list pursuant to § 9-59.
3. By way of background, at all times relevant to this complaint Respondents Crouse and Simmons were Selectmen in the Town of Stonington. Further, on December 16, 2014 the Stonington Board of Selectman held a Special Meeting at 3:00 p.m. and the meeting minutes indicated that an *Appointment of Selectman to Board of Selectman* was made.
4. At issue is whether Respondent Spellman was barred from such appointment by his application and erasure from the Stonington Republican party enrollment on the morning of the aforementioned meeting pursuant to General Statutes § 9-59. Finally, The Board of Selectman is an elective office in the Town of Stonington.

5. The Town of Stonington Municipal Ordinance, provides in pertinent part:

Section 2-2 Eligibility for Office

Any person nominated, elected or ***appointed to fill a vacancy in an Elective Office shall, at the time thereof, be a qualified resident elector in the Town*** and any Elective Office shall be deemed to be vacant when the holder ceases to be a qualified resident elector, as so defined by the General Statutes.

...
Section 2-4 Vacancies in Elective Offices

- A. The Board of Selectman shall fill by appointment a vacancy in an Elective Town Office ... within sixty (60) days from the time that the office became vacant, said appointment shall be for the unexpired portion of the term. ...
- B. Whenever a person vacating an office shall have been elected as a member of a political party, such vacancy shall be filled by the appointment of a member of the same political party.
- C. ***Vacancies in the Board of Selectman shall be filled in the manner prescribed in the General Statutes.***
[Emphasis added.]

6. General Statutes § 9-59 provides:

Any elector whose name appears on any enrollment list or who has made application for enrollment ***may, at any time, make a written application,*** on an application form for admission as an elector, which shall be signed by such elector, ***to either registrar for erasure of his name from such list*** or for transfer of his name to the enrollment list of another party. ***If an elector makes an application for erasure, his name shall be erased from said enrollment list*** and, if a municipality is having a primary in which unaffiliated electors are authorized to vote, under section 9-431, such elector's name shall be placed on the list of unaffiliated electors together with the date he is eligible to vote in a primary. ...

Any elector whose name has been transferred from one enrollment list to another or ***who has applied for erasure*** or transfer ***of his name from an enrollment list shall not be entitled to participate*** or vote in a caucus or primary of ***any party,*** participate in the appointment of members to any board or commission that is political in nature, ***be appointed as a member of any board or commission that is political in nature or be entitled to the privileges accompanying enrollment in any party for a period of three months from the date of the filing of his application for transfer or for erasure.*** ... [Emphasis added]

7. General Statutes § 9-222 provides:

When a vacancy occurs in the office of first selectman or in the office of selectman it shall be filled within thirty days after the day of its occurrence **by the remaining members of the board of selectmen**. Said remaining members may appoint one of themselves to fill a vacancy in the office of first selectman, if they so desire, and **shall then fill the ensuing vacancy in the office of selectman as herein provided**. ... [Emphasis added.]

8. Upon investigation, the Commission finds that Respondent Spellman changed his voter registration party status on December 16, 2014 from Republican to “unaffiliated” by application of erasure from the Republican party enrollment list in Stonington.
9. The Commission notes, regarding the filling of vacancies to elective office in Stonington and pursuant to its ordinance at Section 2-4 (C), that “[v]acancies in the Board of Selectman shall be filled in the manner prescribed in the General Statutes.”
10. The Commission finds, and it is not disputed, that Respondents Crouse and Simmons were the remaining members of the Stonington Board of Selectman and therefore sought to appoint an individual to the Board of Selectman due to a vacancy pursuant to Stonington Municipal Ordinance Sections 2-2 and 2-4 and General Statutes § 9-222, as required.
11. General Statutes § 9-59 provides that any elector whose name has been transferred from one enrollment list to another *or who has applied for erasure from an enrollment list* “...shall not be entitled to ... *be appointed as a member of any board or commission that is political in nature or be entitled to the privileges accompanying enrollment in any party for a period of three months from the date of the filing of his application for transfer or for erasure*. See General Statutes § 9-59, emphasis added.
12. The Commission concludes that the Respondents Crouse and Simmons violated General Statutes § 9-59 on December 16, 2014 by appointing Respondent Spellman to the Stonington Board of Selectman *on the same day* his application for erasure was submitted and he was erased from a party enrollment list and therefore ineligible for an appointment until *after* March 16, 2015.
13. Additionally, the Commission finds that Respondent Spellman’s application for erasure was submitted on December 16, 2014 and records indicate that Respondent Spellman was subsequently erased from the Republican party enrollment list on that same day.

14. Therefore, the Commission further finds that Respondent Spellman was ineligible pursuant to General Statutes § 9-59 for an appointment as a member of any board or commission for three months from the date of his December 16, 2014 filing of his application, or until *after* March 16, 2015.
15. The Commission concludes therefore that the Respondent Spellman violated General Statutes § 9-59 on December 16, 2014 by accepting the appointment as a member of the Stonington Board of Selectman *on the same day* his application for erasure from the Republican party enrollment list was submitted.
16. The Respondents admit all jurisdictional facts and agree 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 Respondents shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
17. The Respondents waive:
 - 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.
18. 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 either party in any subsequent hearing, if the same becomes necessary.
19. Upon the Respondents' compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings pertaining to this matter.

ORDER

IT IS ORDERED THAT that Respondents are on notice of the requirements of General Statutes § 9-59 as detailed in this agreement and shall henceforth strictly comply with the same.

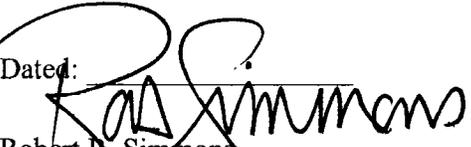
The Respondents:

For the State of Connecticut:

George A. Crouse
160 West Broad Street
Pawcatuck, Connecticut

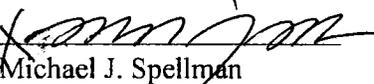
BY: 

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

Dated: 

Robert R. Simmons
260 North Main Street
Stonington, Connecticut

Dated: 10/13/15

Dated: 10/6/15


Michael J. Spellman
160 West Broad Street
Pawcatuck, Connecticut

Dated: 10/6/15

Adopted this 20th day of October, 2015 at Hartford, Connecticut



Anthony J. Castagno, Chairman
By Order of the Commission

**RECEIVED
STATE ELECTIONS**

OCT 08 2015

ENFORCEMENT COMMISSION