

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Alfred P. Mayo,
New Britain

File No. 2015-005

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Peter J. Gostin (hereinafter "Respondent"), of the City of New Britain, County of Hartford, 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. The Complainant alleged that Respondent, New Britain Registrar of Voters, failed to provide a printed voter registry list to him as a petitioning candidate at the May 4, 2015 municipal election in New Britain.
2. More specifically, Complainant alleged that the policy of Respondent's office to charge \$1 per page for a completed enrollment list violated elections laws and that the provision of such lists by any electronic format did not satisfy election laws.
3. At all times relevant to this complaint, Respondent was the Republican Registrar of Voters in the City of New Britain. Complainant is a petitioning mayoral candidate for the November 3, 2015 election in New Britain.
4. General Statutes § 9-55, provides in pertinent part:
 - (a) The registrars shall cause to be printed at least once during the calendar year a sufficient number of copies of complete, corrected enrollment lists certified by them as correct, provided a supplementary or updated list shall be printed within one week after a session held on the fourteenth day before a primary.
 - ...
 - (d) Whenever a list is required by this section to be printed within one week after the session held on the fourteenth day before the primary, a supplement to such list shall be compiled by the registrars of persons who after such date and prior to twelve o'clock noon of the last business day before the primary become

eligible to vote in such primary. ***The registrars may combine such separate compilation with the foregoing printed list either by inserting the names in writing or by reprinting the list incorporating the supplementary or updated list into a single printed list.***

(e) The registrars shall file one copy of each such list with the town clerk which copy shall be available for public use in the office of the town clerk until the printing of the next completed, corrected enrollment list; and ***they shall deliver to the chairman of the town committee of each political party five copies of each such list for each voting district in the town. Upon request the registrars shall give one complete set of such lists to each candidate for nomination for any office or for election as a town committee member.*** . . . [Emphasis added.]

5. General Statutes § 9-55a, provides:

For the performance of the duties imposed by sections 9-55 and 9-57, each registrar, deputy registrar and other personnel appointed as provided in section 9-57 actually engaged in such duties and each municipal clerk shall receive such reasonable compensation from the municipality as is approved by the selectmen of the town, the warden and burgesses of the borough or the common council of the city or the consolidated town and city, as the case may be; and all necessary expenses incurred by registrars and municipal clerks under the provisions of said sections shall be paid by the municipality. [Emphasis added.]

6. General Statutes § 1-212, of the Freedom of Information Act, provides in pertinent part:

(a) Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record. The type of copy provided shall be within the discretion of the public agency, except (1) the agency shall provide a certified copy whenever requested, and (2) if the applicant does

not have access to a computer or facsimile machine, the public agency shall not send the applicant an electronic or facsimile copy. The fee for any copy provided in accordance with the Freedom of Information Act:

...

(e) Except as otherwise provided by law, the fee for any person who has the custody of any public records or files for certifying any copy of such records or files, or certifying to any fact appearing therefrom, shall be for the first page of such certificate, or copy and certificate, one dollar; and for each additional page, fifty cents. For the purpose of computing such fee, such copy and certificate shall be deemed to be one continuous instrument.

7. Upon investigation, it was established that Respondent informed Complainant in response to his request for an enrollment list of registered voters that the policy of New Britain was posted in the Registrars' Office and required a \$1 *per page* fee "*...for any/all voter lists originated by the registrar's office, but that copies of an electronic file sent via email or CD disc of the same may be obtained for free of charge.*"
8. In response to this complaint, Respondent admitted that he did not provide a printed copy because of an office policy to charge \$1 per page and a reliance on Freedom of Information Act in his explanation to this complaint. Moreover, Respondent asserts that he is complying with General Statutes § 1-212, of the Freedom of Information Act, with regards to the New Britain Registrars' Office's policy pertaining to fees *per page* for enrollment lists.
9. The Commission notes that to date Respondent *has* provided all the pertinent information requested by Complainant from the Registrars' Office in *electronic* format.
10. General Statutes § 9-55 (e) requires that "[u]pon request the registrars shall give one complete set of [the original and supplementary] lists to *each candidate for nomination for any office* or for election as a town committee member." (Emphasis added.) Moreover, municipalities are required to cover the costs associated with Registrars incurred in the performance of their duties pursuant to § 9-55a.

11. The Commission stresses the requirement for Registrars of Voters to provide candidates a *printed* voter registry list appears plain in General Statutes § 9-55 as well published by the Secretary of the State in its November 3, 2015 Municipal Election Calendar – Amended (1/5/15) that indicates: *The registrars shall cause to be printed at least once during the calendar year a complete enrollment list and shall make such list available to the public upon request. (Sec. 9-55).* Furthermore, the Commission concludes that any “necessary” expense incurred by Respondent as Registrar in the performance of his duties pursuant to § 9-55, as provided in § 9-55a, should have been “paid by the municipality.”
12. The Commission finds that Respondent’s reliance on § 1-212 is misplaced, in that that section qualifies Freedom of Information requests and specifically limits its requirements where provision of public records are not “otherwise provided by state statute.” Additionally, in this instance, the Registrars are required to provide a voter registry list in printed form and “upon request” to a candidate pursuant to General Statutes § 9-55 and § 9-55a. Finally, the request and provision of a printed voter registry list is *not* a function of Freedom of Information laws, but rather those of Elections Laws as detailed herein.
13. The Commission finds that Complainant, as a petitioning mayoral candidate, was entitled pursuant to General Statutes §§ 9-55 and 9-55a to receive from Respondent a *printed* enrollment list, upon request and *gratis*.
14. The Commission therefore concludes that General Statutes § 9-55 and § 9-55a, requires the provision of enrollment lists to petitioning candidates at no charge and upon request.
15. The Respondent admits all jurisdictional facts and agrees 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 Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
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 either party in any subsequent hearing, if the same becomes necessary.

17. 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.

18. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-55 and § 9-55a.

The Respondent:

By: Peter J. Gostin
Peter J. Gostin
27 West Main Street
New Britain, Connecticut

Dated: 10/16/15

For the State of Connecticut:

BY: Michael J. Brandi
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: 10/19/15

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

Anthony J. Castagno
Anthony J. Castagno, Chairman
By Order of the Commission

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STATE ELECTIONS

OCT 19 2015

ENFORCEMENT COMMISSION