

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Linda Szyrkowicz, Middletown

File No. 2014-158D &
2015-007D

STIPULATED AGREEMENT

The parties, Vincent DiMauro and the undersigned authorized representative of the State Elections Enforcement Commission (the "Commission"), enter into this agreement as authorized by Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance with those provisions, the parties agree that:

ALLEGATIONS

1. The Complainant in this matter alleges that the Respondent voted, via absentee ballot, in the November 4, 2014 election in Middletown when he was not a *bona fide* resident of Middletown.

LAW

2. An elector is eligible to register and vote in a particular town only if such voter is a *bona fide* resident of such town. General Statutes § 9-12, provides in pertinent part:

Each citizen of the United States who has attained the age of eighteen years, and *who is a bona fide resident of the town to which the citizen applies for admission as an elector* shall, on approval by the registrars of voters or town clerk of the town of residence of such citizen, as prescribed by law, be an elector, . . . For the purposes of this section . . . *a person shall be deemed to be a bona fide resident of the town to which the citizen applies for admission as an elector if such person's dwelling unit is located within the geographic boundaries of such town.*

(Emphasis added.)

3. General Statutes § 9-172 further provides that only individuals who are *bona fide* residents of the town in which they are offering to vote will be permitted to vote in the election held in such town. It specifically provides, in relevant part:

At any regular or special town election any person may vote who is registered as an elector on the last-completed registry list of the town in which he offers to vote, and he shall vote in the district in which he is

so registered, . . . *Each person so registered shall be permitted to vote if he is a bona fide resident of the town and political subdivision holding the election*"

(Emphasis added.)

4. Pursuant to General Statutes § 9-7b (a) (3) (E), the Commission is empowered:

To issue an order following the commission's determination of the right of an individual to be or remain an elector when such determination is made (i) pursuant to an appeal taken to the commission from a decision of the registrars of voters or board of admission of electors under section 9-311, or (ii) following the commission's investigation pursuant to subdivision (1) of this subsection;

5. The Commission is further empowered to levy a civil penalty against anyone who votes in any election when not qualified to do so. General Statutes § 9-7b (a), provides in pertinent part:

The State Elections Enforcement Commission shall have the following duties and powers: (2) To levy a civil penalty not to exceed. . . (C) two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum[.]

FACTUAL BACKGROUND

6. Respondent was born on May 15 1976.
7. Respondent's wife is the adult child of State Representative Joseph Serra, Sr.
8. Joseph Serra, Sr. maintains a residence at 1510 Randolph Road in Middletown, CT (hereinafter the "Randolph Road House").
9. The Randolph Road House was the childhood home of the Respondent's wife.
10. Respondent's childhood home is located at 1526 Randolph Road, Middletown, CT.
11. As of the date of the Complaint, Respondent did not own real estate, but did rent a home in in Santa Monica, California.

12. Respondent lists his California address on his driver's license.
13. Respondent lists his California address for income taxation purposes.
14. Respondent lives in California with his wife and child.
15. Respondent has worked for various employers in California since 2005.
16. Respondent registered to vote California prior to the November 4, 2014 election.¹
17. Joseph Serra, Sr. was a candidate for the Connecticut General Assembly and on the ballot in Middletown on November 8, 2014.
18. Respondent voted in the November 4, 2014 general election, in the Town of Middletown, from his childhood home at 1526 Randolph Road, just next door to his wife Lisa's childhood home.
19. Respondent claims an intent to return with his wife and child to his wife's childhood home.

DISCUSSION

20. According to the Commission, an individual's *bona fide* residence is the place where that individual maintains a true, fixed, and principal home to which he or she, whenever transiently located, has a genuine intent to return. *See, e.g., Complaint of Cicero Booker, Waterbury*, File No. 2007-157. In other words, "bona fide residence" is generally synonymous with domicile. *Id.*; *cf. Hackett v. City of New Haven*, 103 Conn. 157 (1925). The Commission has concluded, however, that "[t]he traditional rigid notion of 'domicile' has . . . given way somewhat but only to the extent that it has become an impractical standard for the purposes of determining voting residence (i.e., with respect to college students, the homeless, and individuals with multiple dwellings)." *Complaint of James Cropsey, Tilton, New Hampshire*, File No. 2008-047. *See also, Wit v. Berman*, 306 F.3d 1256, 1262 (2d Cir. 2002) (stating that under certain circumstances domicile rule for voting residency can create administrative difficulties); *Sims v. Vernon*, Superior Court, New London County, No. 41032 (Oct. 4, 1972) (considering issue of voter residency with respect to college students and stating that "a student, and a nonstudent as well, who satisfies

¹ Respondent's registration to vote was included as part of his California driver's license application. Respondent claims that he was not aware that he registered to vote when he changed his license. However, there is no ambiguity in the language on the form, and the form was clearly completed and signed by the Respondent.

the . . . residence requirement, may vote where he resides, without regard to the duration of his anticipated stay or the existence of another residence elsewhere. It is for him alone to say whether his voting interests at the residence he selects exceed his voting interests elsewhere.”)

21. The Commission has further held that, where an individual truly maintains two residences to which the individual has legitimate, significant, and continuing attachments, that individual can choose either one of those residences to be their *bona fide* residence for the purposes of election law so long as they possess the requisite intent. *Complaint of James Cropsey, Tilton, New Hampshire*, File No. 2008-047. See also *Wit*, 306 F.3d at 1262 (quoting *People v. O’Hara*, 96 N.Y.2d 378, 385 (2001)).
22. Moreover, if an individual has established residency at a location, “only the Respondent’s abandonment of the residence . . . will extinguish [his or] her right as an elector in that town.” *Complaint of Carole Dmytryshak, Salisbury*, File No. 2012-197. See also, *Gold v. Gold*, 100 Conn. 607 (Conn. 1924) (holding that for personal jurisdiction purposes “the essentials upon which the conclusion of a change of domicile must rest are an intention to abandon the old domicile and to acquire a new one in another place where a residence has been established”) (citing *Roxbury v. Bridgewater*, 85 Conn. 196; *Hoskins v. Matthews*, 57 Eng. Ch. 12); *Maksym v. Board of Education Com’rs of City of Chicago*, Illinois Supreme Court, Docket No. 111773 (Jan. 27, 2011), 2011 WL 242421 at *8 (“[O]nce residency is established, the test is no longer physical presence but rather abandonment. Indeed, once a person has established residence, he or she can be physically absent from that residence for months or even years without having abandoned it. . . .”).
23. Prior to the November 4, 2014 election, Respondent affirmatively registered to vote in California. In that registration, he affirmatively claimed his California address as his address for voting purposes. In doing so, Respondent forfeited the right to vote in Connecticut elections.
24. Accordingly, the Commission finds that the Respondent voted in an election, when not authorized to do so, in violation of General Statutes § 9-7b (a).
25. Respondent believed that he could vote in the 2014 election from his childhood home, since that home was next door to his wife’s childhood home, and in same voting district as his wife’s childhood home, to which he and his wife had an intent to return with their child. Respondent disagrees with the Commission’s finding in paragraph 24 hereof, and is entering into this Agreement and paying a civil penalty of two hundred fifty dollars (\$250.) solely to avoid the considerable time and expense of litigating this matter further. Respondent has also voluntarily removed himself from the Middletown registry list, and

agrees not to reregister in Middletown unless and until he reestablishes residency in Middletown.

TERMS OF GENERAL APPLICATION

26. The Respondent admits to all jurisdictional facts and agrees that this Agreement shall have the same force and effect as a final decision and order entered into after a full hearing and shall become final when adopted by the Commission.

27. 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 to contest the validity of this Agreement.

28. Upon the Commission's receipt of the Respondent's payment, the Commission shall not initiate any further proceedings against him regarding this matter.


29. It is understood and agreed by the parties to this Agreement that the Commission will consider this Agreement at its next available meeting and, if the Commission rejects it, the Agreement will be withdrawn and may not be used as an admission by the Parties in any subsequent hearing, proceeding or forum.

ORDER

It is hereby ordered that the Respondent shall henceforth strictly adhere to the requirements of General Statutes §§ 9-12, 9-172, and 9-7b (a).

It is further ordered that the Respondent shall pay a civil penalty of two-hundred fifty dollars (\$250) for violating General Statutes § 9-7b.

For the Respondent:

By: 
Vincent DiMauro
3120 Colorado Ave.
Unit D
Santa Monica, CA

Dated: 3/31/17

For the State of Connecticut:

By: _____
Michael J. Brandi
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St.
Hartford, CT 06106

Dated: _____

Adopted this ___ day of _____, 2017 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission

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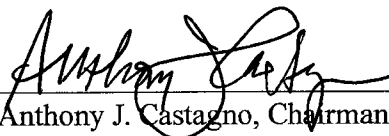
For the State of Connecticut:

By: 
Michael J. Brandi
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St.
Hartford, CT 06106

Dated: 3/31/17

Dated: 4/5/17

Adopted this 19th day of April, 2017 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission

RECEIVED
STATE ELECTIONS

APR 06 2017

ENFORCEMENT COMMISSION