

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Deolinda Ann Ruas, et al, Bridgeport

File No. 2015-137

**FINDINGS AND CONCLUSIONS**

The Complainants Deolinda Ann Ruas and Everett Harkins brought this matter alleging that the Respondent Ramon Garcia unlawfully failed to sign as an assister on an absentee ballot application and also induced Complainant Harkins to falsify Complainant Ruas' signature on her absentee ballot application.

After an investigation of the Complaint, the Commission makes the following findings and conclusions:

**Background**

1. The Complainants here allege that on or about October 6, 2015 Respondent Garcia came to Ms. Ruas' home while she was temporarily away for the day and Complainant Harkins was staying at her home. The Complainants allege that the Respondent gave Mr. Harkins two absentee ballot applications, one for him and one for Ms. Ruas and told Mr. Harkins that he could sign the application on behalf of Ms. Ruas.
2. The Complainants did not allege or present any evidence that the Respondent assisted in executing the absentee ballot applications, either by helping to fill them out and/or by submitting them on the Complainants' behalf.
3. The sole allegation here is that the Respondent misled Complainant Harkins' into thinking that he could sign on behalf of Ms. Ruas.
4. Nonetheless, the Commission's investigation extended into the question of whether the Respondent assisted the Complainants in completing the absentee ballot applications, as the meaning of "assist" has been found to go beyond merely filling out the form on the behalf of an absentee ballot applicant, including, at the very least, collecting absentee ballot applications on the voter's behalf and returning them to the Town Clerk. See *In the Matter of a Complaint by Beth Lazar, Bridgeport*, File No. 2013-120A.

**Law**

5. General Statutes § 9-140 reads, in pertinent part:

(a) Application for an absentee ballot shall be made to the clerk of the municipality in which the applicant is eligible to vote or has applied for such eligibility. Any person who assists another person in the completion of an application shall, in the space provided, sign the application and print or type his name, residence address and telephone number. Such signature shall be made under the penalties of false statement in absentee balloting. The municipal clerk shall not invalidate the application solely because it does not contain the name of a person who assisted the applicant in the completion of the application. The municipal clerk shall not distribute with an absentee ballot application any material which promotes the success or defeat of any candidate or referendum question. The municipal clerk shall maintain a log of all absentee ballot applications provided under this subsection, including the name and address of each person to whom applications are provided and the number of applications provided to each such person. Each absentee ballot application provided by the municipal clerk shall be consecutively numbered and be stamped or marked with the name of the municipality issuing the application. The application shall be signed by the applicant under the penalties of false statement in absentee balloting on (1) the form prescribed by the Secretary of the State pursuant to section 9-139a, (2) a form provided by any federal department or agency if applicable pursuant to section 9-153a, or (3) any of the special forms of application prescribed pursuant to section 9-150c, 9-153a, 9-153b, 9-153d, 9-153e, 9-153f or 9-158d, if applicable. Any such absentee ballot applicant who is unable to write may cause the application to be completed by an authorized agent who shall, in the spaces provided for the date and signature, write the date and name of the absentee ballot applicant followed by the word "by" and his own signature. If the ballot is to be mailed to the applicant, the applicant shall list the bona fide personal mailing address of the applicant in the appropriate space on the application.

...

(k) (1) A person shall register with the town clerk before distributing five or more absentee ballot applications for an election, primary or referendum, not including applications distributed to such person's immediate family. Such requirement shall not apply to a person who is the designee of an applicant.

(2) Any person who distributes absentee ballot applications shall maintain a list of the names and addresses of prospective absentee ballot applicants

who receive such applications, and shall file such list with the town clerk prior to the date of the primary, election or referendum for which the applications were so distributed. Any person who distributes absentee ballot applications and receives an executed application shall forthwith file the application with the town clerk.

(1) No candidate, party or political committee, or agent of such candidate or committee shall mail unsolicited applications for absentee ballots to any person, unless such mailing includes: (1) A written explanation of the eligibility requirements for voting by absentee ballot as prescribed in subsection (a) of section 9-135, and (2) a written warning that voting or attempting to vote by absentee ballot without meeting one or more of such eligibility requirements subjects the elector or applicant to potential civil and criminal penalties. As used in this subsection, "agent" means any person authorized to act on behalf of another person.

. . . (Emphasis added.)

6. General Statutes § 9-359a reads:

(a) A person is guilty of false statement in absentee balloting when he intentionally makes a false written statement in or on or signs the name of another person to the application for an absentee ballot or the inner envelope accompanying any such ballot, which he does not believe to be true and which statement or signature is intended to mislead a public servant in the performance of his official function.

(b) False statement in absentee balloting is a class D felony.

7. General Statutes § 9-363 reads:

Any person who, with intent to defraud any elector of his or her vote or cause any elector to lose his or her vote or any part thereof, gives in any way, or prints, writes or circulates, or causes to be written, printed or circulated, any improper, false, misleading or incorrect instructions or advice or suggestions as to the manner of voting on any tabulator, the following of which or any part of which would cause any elector to lose his or her vote or any part thereof, or would cause any elector to fail in whole or in part to register or record the same on the tabulator for the candidates of his or her choice, shall be guilty of a class D felony.

8. The Commission has previously held that it is the voter's responsibility alone to determine whether or not they have met the requirements for absentee balloting. See *In re: Referral of*

*Waterbury Town Clerk and Registrars of Voters*, File No. 2011-131 (respondent did not violate any statute under Title 9 when he improperly informed voter orally that such voter could sign absentee ballot applications on behalf of his children).

9. However, absentee ballot applications are signed under the penalties of false statement and it is possible that a person circulating such absentee ballot applications could be investigated criminally by the State's Attorneys if probable cause existed that with intent and knowledge, such person conspired with the voter in making such false statement.<sup>1</sup> See General Statutes § 9-8<sup>2</sup>, 53a-48<sup>3</sup>, and 53a-157b<sup>4</sup>.

### **Allegations**

10. The Complainants made sworn statements to the Commission asserting that on or about October 6, 2015, while Complainant Harkins was present in the apartment of Complainant Ruas, who was away, Respondent Ramon Garcia knocked on Ms. Ruas' door.
11. The Complainants assert that Respondent Garcia politely informed Mr. Harkins that he was "taking care" of absentee ballots for the upcoming municipal general election in November.

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<sup>1</sup> Pursuant to General Statutes § 9-7b (a) (8) the Commission may refer to the Chief State's Attorney evidence bearing on potential criminal violations related to any election, primary, and/or referendum.

<sup>2</sup> General Statutes § 9-8 reads:

Any person who makes a false statement in any statement required to be signed under the penalties of false statement under this title and, except as otherwise provided by law, any person who signs the name of another to any such statement shall be guilty of false statement, which shall be deemed to have been committed in the town where such statement is filed and shall be subject to the penalties provided for false statement.

<sup>3</sup> General Statutes § 53a-48 reads:

(a) A person is guilty of conspiracy when, with intent that conduct constituting a crime be performed, he agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them commits an overt act in pursuance of such conspiracy.

(b) It shall be a defense to a charge of conspiracy that the actor, after conspiring to commit a crime, thwarted the success of the conspiracy, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose

<sup>4</sup> General Statutes § 53a-157b reads:

(a) A person is guilty of false statement when such person (1) intentionally makes a false written statement that such person does not believe to be true with the intent to mislead a public servant in the performance of such public servant's official function, and (2) makes such statement under oath or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable.

(b) False statement is a class A misdemeanor.

12. The Complainants further assert that Respondent Garcia offered to “get” absentee ballots for both of them.
13. The Complainants further assert that Respondent Garcia “filled out two pieces of paper,” the nature of which Mr. Harkins was not able to identify, one in each Complainant’s name, and asked Complainant Harkins to sign for himself and Ms. Ruas and allegedly told him that signing on her behalf was permissible.
14. The Complainants assert that Respondent Garcia gave Complainant Harkins an electioneering communication advocating for the candidacy for mayor of Joseph Ganim and wrote his personal mobile telephone number and told Mr. Harkins that when their absentee ballots arrived, he could help them and give them a stamp to mail the absentee ballots.

#### **Response**

15. The Respondent here provided a sworn statement asserting that he did not recall the specific interaction that he had with Complainant Harkins. However, he asserted that he would never tell a prospective absentee ballot applicant that s/he could sign an absentee ballot application on behalf of another.
16. The Respondent asserted that it was his practice to leave his contact information so that he could help in the event that a voter had a question or needed assistance in returning a “lawfully filled out absentee ballot,” including but not limited to providing a stamp.

#### **Investigation**

17. After a thorough investigation, the Commission was unable to verify the allegations here. Other than the electioneering communication with Respondent Garcia’s mobile number written on it, there is no other proof that Mr. Garcia conspired or attempted to conspire with the Complainants to make a false statement by having Mr. Harkins sign on Ms. Ruas’ behalf.
18. The investigation revealed that Complainant Ruas did vote by absentee ballot in that election, but she did not obtain her absentee ballot using an application that Respondent Garcia gave her; she submitted a different application—using her own signature—approximately a week after the events alleged in this case.
19. The investigation also revealed that Complainant Harkins also did not vote using an absentee ballot obtained through Respondent Garcia’s efforts, but rather cast a ballot in person at his polling place.

**Conclusion**

20. The investigation revealed no evidence corroborating the allegations in this matter. Considering the limited available evidence, the Commission cannot determine that it was more probable than not that any civil violation occurred under Title 9 and it also cannot determine that evidence exists bearing on potential criminal violations such that the Commission would refer this matter to the Chief State's Attorney.
  
21. Considering the aforesaid, this matter should be dismissed.

**ORDER**

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

That this matter is dismissed

Adopted this 18th day of April, 2018 at Hartford, Connecticut.

  
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Anthony J. Castagno, Chairperson  
By Order of the Commission