

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Ronna Stuller,
New London

File No. 2015-164

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between William F. Giesing and Robert Pero (hereinafter "Respondents") of the City of New London, 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 alleged that Respondents, while serving as the City of New London Registrars of Voters, violated elections laws by (1) failing to provide notice to the chairman of the Green Party regarding preparation of the tabulators prior to the November 3, 2015 election as required by General Statutes §9-244 and (2) preparing a sample ballot for that election that had the incorrect placement of two Green Party candidates in violation of §9-255, *et seq.*
2. By way of background, Complainant, Chair of the New London Green Party, filed this complaint with the Commission on the advice of an attorney at the Office of the Secretary of the State (SOTS), Legislative and Elections Division when she raised these concerns with that office on October 23, 2016.
3. At all times relevant to the instant Complaint, Respondent Giesing and Respondent Pero were the City of New London Democratic Registrar of Voters and the Republican Registrar of Voters, respectively.
4. Finally, there is no allegation that any of the errors as alleged and pertaining to the notice to Complainant as New London Green Party chair of the tabulator testing and sealing, or regarding the alleged misprint of the sample ballot by Respondents prior to the November 3, 2015 election in New London were purposeful.
5. General Statutes §9-244, provides in pertinent part:
 - (a) *Such registrars of voters shall give written notice to the chairpersons of the town committees of the political parties of the day and place a registrar or registrars will begin the preparation, test voting and sealing of the tabulators for the election, including any additional tabulators required under section 9-238. Such notice*

shall be given at least one day before the work on the preparation of such tabulators begins.

(b) Each such chairperson and any candidate for an office appearing on the ballot may be present, or may designate a watcher who may be present, during the preparation of such tabulators, but such chairpersons, candidates and watchers shall not interfere with, or assist in, the preparation of the tabulators.

[Emphasis added.]

6. General Statutes §9-250, provides in pertinent part:

Ballots shall be printed in plain clear type and on material of such size as will fit the tabulator, and shall be furnished by the registrar of voters. The size and style of the type used to print the name of a political party on a ballot shall be identical with the size and style of the type used to print the names of all other political parties appearing on such ballot. The name of each major party candidate for a municipal office, as defined in section 9-372, except for the municipal offices of state senator and state representative, shall appear on the ballot as it appears on the registry list of the candidate's town of voting residence, except as provided in section 9-42a. The name of each major party candidate for a state or district office, as defined in section 9-372, or for the municipal office of state senator or state representative shall appear on the ballot as it appears on the certificate or statement of consent filed under section 9-388, subsection (b) of section 9-391, or section 9-400 or 9-409. The name of each minor party candidate shall appear on the ballot as it appears on the registry list in accordance with the provisions of section 9-452. ... The size and style of the type used to print the name of a candidate on a ballot shall be identical with the size and style of the type used to print the names of all other candidates appearing on such ballot. Such ballot shall contain the names of the offices and the names of the candidates arranged thereon. The names of the political parties and party designations shall be arranged on the ballots and followed by the word "party", either in columns or horizontal rows as set forth in section 9-249a,

immediately adjacent to the column or row occupied by the candidate or candidates of such political party or organization. ...

7. General Statutes §9-255, provides:

The registrars of voters shall provide for all polling places using voting tabulators at least two sample ballots that shall contain the offices, party designations, names of candidates, write-in slots and questions to be voted upon. On each such sample ballot shall be printed instructions as to the use of the voting tabulator, which instructions shall be approved by the Secretary of the State. Such sample ballots shall be so posted inside the polling place as to be visible to those within the polling place during the whole day of election. At least one of such sample ballots shall be so posted as to be visible to an elector being instructed on the use of the voting tabulator under section 9-260.

8. General Statutes §9-256, provides:

The registrars of voters of each municipality shall, not less than ten days prior to an election, file with the Secretary of the State a sample ballot identical with those to be provided for each polling place under section 9-255. The Secretary of the State shall examine the sample ballot required to be filed under this section, and if such sample ballot contains an error, the Secretary of the State shall order the registrars of voters to reprint a corrected sample ballot or to take other such action as the Secretary may deem appropriate.

[Emphasis added.]

9. After investigation, the Commission finds that Complainant and the Respondents agree as to the relevant facts pertaining Allegation One and Allegation Two. Further, the Commission notes that there appears to be a strong working relationship between the Complainant and the Respondents throughout the instances that gave rise to this complaint and investigation.

10. Allegation One: *Failing to provide notice to the chairman of the Green Party regarding preparation of the tabulators prior to the November 3, 2015 election as required by General Statutes § 9-244.*

11. Upon investigation, Respondents admit that they failed to provide notice of the time and date of as to their October 22, 2015 testing and sealing of the tabulators prior to the November 3, 2015 election to Complainant as the Chair of the New London Green Party town committee.
12. Pursuant to General Statutes § 9-244, Registrars of Voters “...shall give written notice to the chairpersons of the town committees of the political parties of the day and place a registrar or registrars will begin the preparation, test voting and sealing of the tabulators for the election.”
13. Therefore, the Commission concludes that Respondents, as detailed in paragraphs 11 and 12 above, violated General Statutes § 9-244, because they failed to provide notice of the time and date of the October 22, 2015 testing and sealing of the tabulators prior to the November 3, 2015 election to Complainant as the Chair of the New London Green Party town committee.
14. The Commission notes that Complainant indicated that she was provided the records from the October 22, 2015 tabulator testing and preparation by Respondents on October 27, 2015 and was “satisfied that the testing process had been well-planned through.”
15. Furthermore, Respondents in the course of this investigation provided Commission staff with a checklist for notice requirements to political party chairs for use in future elections and primaries that they will use to reduce the risks of failing to provide notice to relevant individuals in the future. Finally, the Respondents have agreed to implement this process hereinafter to ensure their compliance with the notice requirements and the inspection and certification of tabulators prior to elections and primaries pursuant to of General Statutes § 9-244.
16. Allegation Two: *Preparing a sample ballot for the aforementioned election that had the incorrect placement of two Green Party candidates in violation of § 9-255, et seq.*
17. Complainant asserted that she remained concerned prior to the election regarding the incorrect placement of two Green Party candidates on the November 3rd ballot and believed that it “exacerbated” the problems of tallying votes for cross-endorsed candidates.
18. Upon investigation, the Commission finds that Respondents admitted an error on the original sample ballot proof prior to the election and indicated that they were made aware of it several days after they had given a copy of the ballot to the Green Party.

19. More specifically, the Commission finds that Respondent Giesing admitted that the ballot that was subject of this complaint and investigation:

... was a copy of the ballot proof that was first received and I had failed to delete this copy after we had corrected any changes with LHS [the printer] before giving them the okay to proceed. In trying to assist the Green's we will have to wait a little longer to ensure that we have removed any drafts from LHS from my election files in the future. This [was] not an official sample ballot that is posted at the polls, it is a copy of the proof copied on an 8.5 X 14 paper and has sample written over it so as not to confuse someone into thinking it is an official ballot. We do give this out of public service to the parties to show the public how the ballots will look at the polls. The official sample ballot is on file with the Secretary of [the] State and shows the ballot was done correctly for all candidates.

20. The Commission finds, pursuant to this investigation, that records on file with the SOTS included the November 3, 2015 New London municipal ballot with the *correct* positioning of the Green Party candidates as required by General Statutes . Further, the investigation revealed that there was no indication that the filing of this ballot was untimely or that the SOTS had to return it for corrective action by Respondents. *See* General Statutes § 9-256.
21. Under the facts of this complaint and investigation, the Commission finds that Respondents had corrected the errors of the original printing of the sample ballot pertaining to the Green Party candidates prior to its submission to the state as required by statute. *See* General Statutes § 9-255, *et seq.*
22. Moreover, the Commission finds that the evidence supports the conclusion that the correct ballot reached the SOTS in a timely fashion and that that office did not find it necessary to implement corrective instructions and/or actions pursuant to General Statutes § 9-256 or otherwise.
23. The Commission finds that Allegation Two, while substantiated on the facts, does not rise to the level of a violation of the law pursuant to General Statutes § 9-255, *et seq.* Therefore the Commission concludes that Allegation Two pertaining to an alleged violation of § 9-255, *et seq.*, is not supported by the law after investigation and dismisses the allegation.

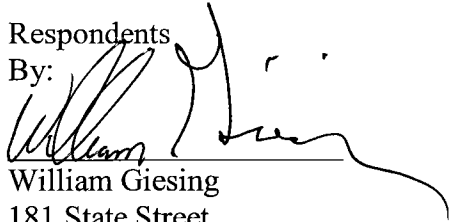
24. Respondents admit all jurisdictional facts and agree that this Agreement and Order shall have the same force and effect as a final decision and order entered into after a full hearing and shall become final when adopted by the Commission.
25. The Respondents waive:
- a. Any further procedural steps;
 - 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.
26. Upon the Respondents' agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondents concerning this matter.
27. It is understood and agreed by the parties to this Agreement that the Commission will consider this Agreement at its next meeting and, if the Commission rejects it, the Agreement will be withdrawn and may not be used as an admission by either party in any subsequent hearing, if one becomes necessary.

ORDER

IT IS HEREBY ORDERED THAT Respondents shall henceforth strictly comply with the requirements of General Statutes § 9-244.

Respondents

By:

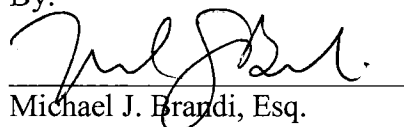


William Giesing
181 State Street
New London, Connecticut

Dated: 8/24/2016

For the State of Connecticut

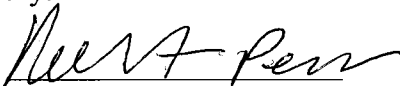
By:



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

Dated: 8/30/16


By:



Robert Pero
181 State Street
New London, Connecticut

Dated: 8/26/16

Adopted this 14th day of September, 2016 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission

RECEIVED
STATE ELECTIONS

AUG 3 0 2016

ENFORCEMENT COMMISSION