

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Kaitlyn L. Fydenkevez, West Hartford

File No. 2016-024B

AGREEMENT CONTAINING A CONSENT ORDER

The parties, The Office of the Registrar of Voter for the City of Hartford (the “Respondent” and/or “Respondents”) 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:

PARTIES

1. At all times relevant hereto the Complainant, Kaitlyn L. Fydenkevez, was an elector in the State of Connecticut.

ALLEGATIONS, FINDINGS, AND ANALYSIS

1. The Complainant alleges that she was improperly removed from the voter rolls in West Hartford.¹
2. On April 26, 2016, the Complainant presented herself to the official checkers at the Elmwood Community Center and stated that she was there to vote in the Democratic Presidential Preference Primary.
3. The Complainant was informed that her name did not appear on any of the registry lists.
4. ~~The Complainant stated that she was a registered voter in the town of West Hartford, and further stated that she was registered as a member of the Democratic Primary.~~
5. Based upon those representations, and because the Democratic Presidential Primary was a “primary for federal office”, Complainant was provided with a provisional ballot, pursuant to General Statutes § 9-232i, which the Complainant completed and delivered to the elections officials.
6. General Statutes § 9-21 (a) provides:

¹ Allegations concerning the West Hartford Registrars of Voters has been address in a separate document under file number 2016-024A.

If any applicant for admission as an elector in any town has previously been admitted as an elector in any other town in this state, or in any other state, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam or the Trust Territory of the Pacific Islands, he shall, under penalties of perjury, so declare, and shall also declare by what name and in what town and state, district or territory he was last admitted as an elector and the street address from which he last voted therein. The admitting official shall within forty-eight hours thereafter transmit a notice of cancellation of such registration, upon a form prescribed by the Secretary of the State to the registrars of such other town or, in the case of a town in another state, district or territory, to the appropriate registration official or officials in such other town. Upon receipt of such notice of cancellation of registration, the registrars of the town from which such elector has removed shall forthwith erase the name of such elector from the registry list of the town, if the same has not been erased therefrom.

7. General Statutes § 9-32 (b) further provides:

No elector's name shall be removed from the registry list, pursuant to section 9-35, unless (1) the elector confirms in writing that the elector has moved out of the municipality, or (2) the elector has been sent, by forwardable mail, a notice and a postage prepaid preaddressed return card in accordance with the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time, four years prior to removal from the registry list and such elector has failed to respond and has not restored the elector's name to the active registry list under section 9-42 or voted in an election or primary in the municipality during the period beginning on the date of the notice and ending four years later. If a registrar or a registrar's designee conducts a telephone canvass, a telephone call by any such person shall constitute an attempt to contact the elector only if the elector's household has a published telephone number and the telephone is in operating order. If a registrar, or a registrar's designee, during a telephone canvass contacts a telecommunication device for the deaf in an elector's household, such call shall not constitute an attempt to contact the elector unless the registrar, or the registrar's designee, uses a similar device or uses a message relay center. No elector's name shall be removed from the active

registry list pursuant to said section 9-35 as a result of information obtained during a telephone canvass, unless the registrar believes such information is reliable and sufficient to enable the registrar to determine if the elector is entitled to remain on the list under the provisions of this chapter.

8. Removal of a voter from a registry list for reasons other than those specifically enumerated by statute is a violation for which the Commission may assess a civil penalty not to exceed \$2,000. General Statutes § 9-7b. *See also Complaint by Patricia A. Plourde, Middletown, File No. 2012-006.*
9. After voting was completed, the West Hartford Registrars of Voters investigated whether the Complainant was authorized to vote in the West Hartford Democratic Primary, in accordance with General Statutes § 9-232n.
10. The Respondents discovered, in the course of their investigation, that the Complainant had been improperly removed from the registry list in West Hartford as a result of the actions of an employee in Hartford Registrars of Voters office. This was confirmed by an independent investigation by the Commission staff.
11. Specifically, the evidence shows, and the Respondents admit, that a seasonal worker in the Hartford Registrar's Office, upon learning that there was a duplicate registration for the Complainant and in an effort to update Complainant's voter information, made changes in the Connecticut Voter Registration System which were incorrect and which effectively removed the Complainant from the West Hartford voter rolls, even though the Complainant's West Hartford registration was more recent in time.
12. While the Complainant was not disenfranchised in this instance, the risk that the Complainant's vote would have been disregarded was greatly increased by the actions and omissions of the Respondents. Wrongful disenfranchisement of an elector is a serious violation. *In the Matter of a Referral of the Secretary of the State, File No. 2012-167.*
13. In making these changes in the Connecticut Voter Registration System and effectively removing the Complainant from the West Hartford registry list, without following the statutorily mandated procedures, the Respondents violated General Statutes §§ 9-21 and § 9-32.
14. In light of the foregoing facts and circumstances, the Hartford Office of the Registrar has adopted policies to ensure that individuals are not removed from any registry list except when in accordance with applicable law.

15. The Hartford Office of the Registrar has further agreed to maintain records of each time an individual is removed from any registry list by the Office of the Registrar. Such records shall include the reason why such action was taken.

TERMS OF GENERAL APPLICATION

2. The Respondents admit to all jurisdictional facts and agrees 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.
3. 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 to contest the validity of the Order entered into pursuant to this Agreement.
4. Upon the Respondents' agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondents regarding this matter.
5. 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 Respondents shall henceforth strictly adhere to the requirements of General Statutes §§ 9-21 and § 9-32.

It is further ordered that the Respondents shall pay a three hundred dollar (\$300) civil penalty for the violations of General Statutes §§ 9-21 and § 9-32.

**For the Office of the Hartford
Registrar of Voters:**

For the State of Connecticut:

By: 
Lori Mizerak
Assistant Corporation Counsel and
Authorized Representative of the
Office of the Hartford Registrars of Voters
550 Main Street
Hartford, CT 06103

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: April 3, 2017

Dated: _____

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

Anthony J. Castagno, Chairman
By Order of the Commission

ORDER

It is hereby ordered that the Respondents shall henceforth strictly adhere to the requirements of General Statutes §§ 9-21 and § 9-32.

It is further ordered that the Respondents shall pay a three hundred dollar (\$300) civil penalty for the violations of General Statutes §§ 9-21 and § 9-32.

**For the Office of the Hartford
Registrar of Voters:**

By: 
Lori Mizerak
Assistant Corporation Counsel and
Authorized Representative of the
Office of the Hartford Registrars of Voters
550 Main Street
Hartford, CT 06103

Dated: April 3, 2017

For the State of Connecticut:

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

Dated: 4/4/17

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 0 4 2017

ENFORCEMENT COMMISSION
