

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint of Jordan J. Freeman,
Hartford

File No. 2016-028

AGREEMENT CONTAINING CONSENT ORDER

The parties, the City of Hartford Registrars' of Voters Office, County of Hartford, State of Connecticut (hereinafter "Hartford ROVs"), and the undersigned authorized representative of the State Elections Enforcement 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:

1. Complainant alleged when he first went to vote at the April 26, 2016 Democratic presidential preference primary in Hartford at the Parkville Community School polling place he was told by polling place officials that he could not vote.
2. Complainant further asserted that at that time he requested and was denied a provisional ballot by the same officials, despite the fact that he informed them that he believed he was registered to vote and enrolled with the Democratic party.
3. Complainant explained that prior to April 26, 2016 he received correspondence from the Hartford ROVs indicating that he was registered to vote and was enrolled with a political party and therefore assumed he could vote at the presidential preference primary.
4. By way of background, Commission records indicate that Complainant and his teacher were in regular contact with Commission Staff *via* the Primary Day "Hotline," administered by the Commission, seeking assistance pertaining to the matters detailed herein
5. General Statutes § 9-57, provides:
Notwithstanding the provisions of any special act or charter to the contrary, whenever any person makes application for admission as an elector in person to an admitting official, ***he may, on an application for admission as an elector, make application for enrollment on the list of the political party of his preference. Any such elector who has so applied for enrollment shall, upon acquisition of electoral privileges, immediately be entitled to all the privileges of enrollment in the party named in his application,*** unless (1) he ceases to be an elector in the town or voting district in which he is entitled to vote, as the case may be, (2) he makes application for erasure or transfer or enrollment on the list of another party in accordance with the provisions of section 9-59, (3)

he files his application for enrollment with the registrars of voters of his town of residence after twelve o'clock noon on the last business day before a primary, in which case he shall be entitled to the privileges of party enrollment immediately after the primary, or (4) he files his application for enrollment with the registrars of voters of his town of residence on the day of a caucus or convention, in which case he shall be entitled to the privileges of party enrollment immediately after the caucus or convention. The registrars of voters or assistant registrars shall add the names of all persons making such application to the enrollment list or supplementary enrollment list of the political party of each such applicant's preference, provided, if a caucus or convention is to be held, such registrars or assistant registrars shall prepare separate lists of such names according to party, on the day before such caucus or convention. [Emphasis added.]

6. General Statutes § 9-232i, provides in pertinent part;
 - (a) An individual may apply for and be issued a provisional ballot if (1) the individual appears at the polling place and declares that such individual is an elector in the town in which the individual desires to vote and that the individual is eligible to vote in the primary or election for federal office in the polling place, ***but the name of the individual does not appear on the official registry list for such polling place***, and (2) the registrars determine that such name cannot be restored under section 9-42 or transferred from another polling place under section 9-35. [Emphasis added.]
7. Upon investigation, the Commission confirmed that Complainant had registered on April 21, 2016 and checked the box to enroll in the Democratic party. Moreover, Complainant's claim that he received correspondence from the Hartford ROVs office indicating that he had registered as a voter and designated a party prior to the presidential preference primary and was verified through use of the Centralized Voter Registration System ("CVRS").
8. The Commission finds it significant for purposes of applying General Statutes § 9-232i that Complainant (1) identified himself as an enrolled party member when he first presented himself to vote at the presidential preference primary at the Parkville Community School polling place and (2) that polling place officials could not find him on the checkers' list of registered Democratic voters.

9. The Commission finds that after Complainant was informed that he was not on the checkers' list, he requested a provisional ballot and was not provided one. While the Hartford ROVs claim, in response to this complaint and investigation that they instructed their polling officials at the Parkville Community School polling place to issue Complainant a provisional ballot in attempt to resolve this issue by phone on the afternoon of April 26, 2016, the fact that Complainant was never in fact issued a provisional ballot was not contradicted by the facts after investigation.
10. The Commission finds that Complainant returned to the Parkville Community School polling place later towards the end of the day on April 26, 2016 to again attempt to vote and that he was told by the polling place officials that the Hartford ROVs that he was in fact registered to vote in the Democratic primary.
11. Specifically, the Commission finds, and the Hartford ROVs admit, that the Hartford ROVs had confirmed by this time with the polling place officials that Complainant's voter registration card had, in "error," been uploaded to CVRS by that office with the "wrong birth date" and that the issue had been "resolved." Complainant admits that he was consequently able to vote in-person by ballot at the Democratic primary upon his second trip to his polling place on April 26, 2016.
12. The Commission concludes that General Statutes § 9-232I, would require the issuance of a provisional ballot to an individual who asserts their belief that they are properly registered with a party in a primary, although they do not appear on the checker's list. Consequently, under the facts and circumstances, as detailed herein, the Commission finds that Complainant should have been provided a provisional ballot upon making his initial request to the Parkville Community School polling place officials on the morning of April 26, 2016.
13. The Commission concludes therefore that the Hartford ROVs violated General Statutes § 9-232I by failing to originally confirm with polling place officials by phone on the morning of April 26, 2016 that Complainant was able to vote by provisional ballot and ensuring that the Parkville polling place officials issued Complainant such a ballot.
14. The above analysis remains unchanged by the mitigating factor that Complainant, upon a second visit to the Parkville Community School polling place on April 26, 2016, was ultimately allowed to vote by regular ballot because polling place officials had by that time cleared up the error with the Hartford ROVS.
15. The Hartford ROVs 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 into after a full hearing and shall become final when adopted by the Commission.

16. The Hartford ROVs 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.
17. Upon the Hartford ROVs agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Hartford ROVs.
18. 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 either party in any subsequent hearing, if one becomes necessary.

ORDER

IT IS HEREBY ORDERED THAT the Hartford ROVs will henceforth strictly comply with the requirements of General Statutes § 9-323l

For the Hartford ROVs:

By:



Office of Corporation Counsel,
City of Hartford
550 Main Street
Hartford, Connecticut

Dated: 4/26/17

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: 5/1/17

Adopted this 17th day of MAY, 2017 at Hartford, Connecticut by vote of the Commission.



~~Anthony J. Castagno, Chairman~~

By Order of the Commission

Salvatore A. Bramante, Vice Chair

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ENFORCEMENT COMMISSION