

RECEIVED
STATE ELECTIONS

SEP 25 2017

ENFORCEMENT COMMISSION

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Keith R. Ricci, Hartford

File No. 2016-041

AGREEMENT CONTAINING A CONSENT ORDER

The parties, The Office of the Registrar of Voters for the City of Hartford and the Office of the Town Clerk for the City of Hartford (the "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:

1. At all times relevant hereto the Complainant, Keith R. Ricci, was an elector in the City of Hartford.
2. The Complainant, alleged that, although he was on the permanent absentee ballot list, he did not receive an absentee ballot for the Presidential Preference Primary on April 26, 2016.
3. General Statutes § 9-140 provides that municipal clerks shall issue absentee ballots to those "whose application was received by the clerk prior to that day."
4. General Statutes § 9-140e further provides:

(a) Any elector who is permanently physically disabled and who files an application for an absentee ballot with a certification from a primary care provider, indicating that such elector is permanently physically disabled and unable to appear in person at such elector's designated polling location, shall be eligible for permanent absentee ballot status and shall receive an absentee ballot for each election, primary or referendum conducted in such elector's municipality for which such elector is eligible to vote. Such elector's permanent absentee ballot status shall remain in effect until such elector: (1) Is removed from the official registry list of the municipality, (2) is removed from permanent absentee ballot status pursuant to the provisions of this section, or (3) requests that he or she no longer receive such permanent absentee ballot status.

(b) The registrars of voters shall send written notice to each such elector with permanent absentee ballot status in January of each year, on a form prescribed by the Secretary of the State, for the purpose of determining if such elector continues to reside at the address indicated on the elector's permanent absentee ballot application. If (1) such written notice is returned as undeliverable, or (2) not later than thirty days after such notice is sent to the elector, the elector fails to return such notice to the registrars of voters, as directed on the form, the elector in question shall be removed from permanent absentee ballot status. If such elector indicates on such notice that

the elector no longer resides at such address and the elector's new address is within the same municipality, the registrars of voters shall change the elector's address pursuant to section 9-35 and such elector shall retain permanent absentee ballot status. If the elector indicates on such notice that the elector no longer resides in the municipality, the registrars of voters shall remove such individual from the registry list of the municipality and send such individual an application for voter registration. Failure to return such written notice shall not result in the removal of an elector from the official registry list of the municipality.

5. The evidence in this case reveals that, at all times relevant hereto, the Complainant had a permanent physical disability that renders him unable to appear in person at his polling location.
6. Because of this disability, the Complainant alleges that he previously applied for and was admitted to the permanent absentee ballot list in the City of Hartford and has been on such list for "several years."
7. In their initial response to the instant complaint, the Respondents claimed that the Complainant was not on the permanent absentee ballot list in 2016, and thus, he was not entitled to receive an absentee ballot for the April 26, 2016 Presidential Preference Primary without first submitting an absentee ballot application.
8. The evidence, however, does not support the Respondents' position.
9. On May 8, 2014, the Complainant received a letter from the Hartford Registrars of Voters which stated:

Thank you for submitting your request for permanent Absentee Ballot application. **Your application has been received and processed by this office.**

Enclosed, please find a Notice of Change in your Voter Registration. The type of change reflects (**Other change**) which pertains to permanent Absentee ballot status.

Please note that **moving forward the Town Clerk** will work with this request and will be sending you your ballots as per your request on the application.

Ballots will be sent out by the Town Clerk, **beginning 31 days before a general election and 21 days before primary elections.** Once a year we will send you a letter confirming that you wish to continue receiving these ballots.

If you have any questions regarding your ballot status please feel free to contact the Town Clerk Office at 860 757 9755.

(Emphasis in original).

10. On February 11, 2016, the Complainant received a further document entitled "Notice of Permanent Absentee Ballot Status". The document was addressed to the Complainant and originated from the Hartford Registrars of Voters.
11. Evidence shows that the aforementioned Notice of Permanent Absentee Ballot Status was completed and returned to the Hartford Registrars of Voters by the Complainant. On this document, the Complainant indicated that he had moved within the City of Hartford, but made no indication that he wished to forfeit his permanent absentee ballot status.
12. The February 22, 2016 permanent absentee voting list for the City of Hartford included the Complainant.
13. The Respondents allege that they do not have any medical documentation to support the Complainant's preeminent absentee ballot status.
14. The Complainant did not vote in the April 26, 2016 Presidential Preference Primary.
15. The Respondents contend that, despite the documentary evidence, the Complainant did not submit sufficient medical information to justify permanent absentee ballot status. In fact, the Respondents contend that they have no medical records for the Complainant on file. This argument, however, is tangential to the underlying violation alleged here.
16. The Respondents in this case represented to the Complainant, on multiple occasions, that he had obtained permanent absentee ballot status. Based upon that representation, the Complainant awaited an absentee ballot for the April 26, 2016 Presidential Preference Primary that never came. As a result, the Complainant was disenfranchised.
17. While the Respondents claim that the Complainant was not entitled to permanent absentee ballot status, it was the Respondents themselves that had previously granted him such status. Moreover, even if it were granted inappropriately, the solution was not to simply stop issuing absentee ballots to the Complainant with no warning.
18. Once an individual obtains permanent absentee ballot status, such individual can only have such status revoked if the individual: "(1) is removed from the official registry list of the municipality, (2) is removed from permanent absentee ballot status pursuant to the provisions of this section, or (3) requests that he or she no longer receive such permanent

absentee ballot status.” General Statutes § 9-140e (a). General Statutes § 9-140e (b) further details the process to remove an individual from the permanent absentee ballot list. Such process involves sending a notice to the voter to determine if the voter still resides at the location and if they wish to remain on the permanent absentee ballot list. In this case, the Respondents did send such a notice, and in February of 2016, the Complainant advised that he had moved within the municipality, but did not indicate a desire to be removed from the permanent absentee ballot list. Accordingly, there was no lawful reason to remove the Complainant from the permanent absentee ballot list.

19. Based upon the foregoing the Commission concludes that:

- a. As of May 8, 2014, the Complainant had obtained permanent absentee ballot status.
- b. For the period May 8, 2014 through April 26, 2016, there was no lawful reason to remove the Complainant from the permanent absentee ballot list.
- c. Prior to April 26, 2016, the Complainant had been removed from the permanent absentee ballot list.
- d. The Complainant was not sent an absentee ballot despite being lawfully entitled to receive one.

20. While the General Statutes typically delineate responsibilities for election administration between the registrars and town clerks, administering permanent absentee voting is an area where both the registrars and town clerks bear responsibility. While General Statutes § 9-140 provides that it is the municipal clerk that should process absentee ballot applications, General Statutes § 9-140e places the responsibility to send out annual notices concerning permanent absentee ballot status on the registrars of voters.

21. In this case, both the registrars of voters and the town clerk are liable for this violation. Based upon the representations of both the Registrar Respondents and the Clerk Respondent, the Complainant did not receive an absentee ballot for the April 26, 2016 Presidential Preference Primary because the Respondents collectively determined that he was not eligible to be on the permanent absentee ballot list. Based upon that erroneous determination, they effectively removed the Complainant from the permanent absentee ballot list but circumvented the statutory process detailed in General Statutes § 9-140e. Accordingly, the Commission finds that all of the Respondents violated General Statutes § 9-140e and are subject to civil penalties pursuant to General Statutes § 9-7b (a) (2).

22. Violations by elections officials resulting in the disenfranchisement of an elector, even if unintentional, is a matter the Commission takes very seriously. *See In the Matter of a*

Complaint by Kaitlyn L. Fydenkevez, West Hartford, File No. 2016-024B; In the Matter of a Complaint by Bernandus Van Gool, Old Lyme, File No. 2014-183.

TERMS OF GENERAL APPLICATION

23. 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.
24. 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.
25. 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.
26. 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 §§ 9-140 and 9-140e.

It is further ordered that the Respondent Office of the Registrar of Voters shall pay a civil penalty of eight hundred (\$800).

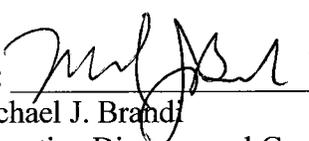
It is further ordered that the Respondent Office of the Town Clerk shall pay a civil penalty of two hundred dollars (\$200).

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

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

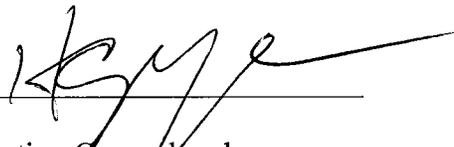
Dated: 9/20/17

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: _____

**For the Office of the Hartford
Town Clerk:**

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

Dated: 9/20/17

Adopted this 18 day of OCT, 2017 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission