

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by the Suffield Registrars of Voters

File No. 2017-001

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Christopher J. Ballard (the "Respondent") 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:

ALLEGATIONS

1. The Referring Official alleged that the Respondents voted in Suffield when he was a resident of Massachusetts.

LAW

2. An elector is eligible to register and vote in a particular town only if such voter is a *bona fide* resident of such town. General Statutes § 9-12, provides in pertinent part:

(a) Each citizen of the United States who has attained the age of eighteen years, and *who is a bona fide resident of the town to which the citizen applies for admission as an elector* shall, on approval by the registrars of voters or town clerk of the town of residence of such citizen, as prescribed by law, be an elector, except as provided in subsection (b) of this section[.]

(Emphasis added).

3. General Statutes § 9-172 further details the eligibility requirements for voting in a state election.

At any regular or special state election any person may vote who was registered on the last-completed revised registry list of the town in which he offers to vote, and he shall vote in the district in which he was so registered; provided those persons may vote whose names are restored to the list under the provisions of section 9-42 or whose names are added on the last weekday before a regular election under the provisions of section 9-17. Each person so registered shall be permitted to vote if he is a *bona fide* resident of the town and political subdivision holding the election and has not lost his right by conviction of a disfranchising crime. Any person offering so to vote and being challenged as to his identity or residence shall, before he votes, prove his identity with the person on whose name he offers to vote or his *bona fide* residence in the town and political subdivision

holding the election, as the case may be, by the testimony, under oath, of at least one other elector or by such other evidence as is acceptable to the moderator.

4. Any person who votes in any election when not qualified to do so, faces both civil and criminal liability. General Statutes § 9-7b, provides in pertinent part:

(a) The State Elections Enforcement Commission shall have the following duties and powers: (2) To levy a civil penalty not to exceed. . . (C) two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum,

5. General Statutes § 9-360, further provides, in pertinent part:

Any person not legally qualified who fraudulently votes in any town meeting, primary, election or referendum in which the person is not qualified to vote, and any legally qualified person who, at such meeting, primary, election or referendum, fraudulently votes more than once at the same meeting, primary, election or referendum, shall be fined not less than three hundred dollars or more than five hundred dollars and shall be imprisoned not less than one year or more than two years and shall be disfranchised. Any person who votes or attempts to vote at any election, primary, referendum or town meeting by assuming the name of another legally qualified person shall be guilty of a class D felony and shall be disfranchised

FACTUAL BACKGROUND

6. The facts in this matter are uncontested. The Respondent currently lives in a home in Feeding Hills, Massachusetts with his wife and child. The Respondent also owns a home in Suffield, where he resided before moving to Feeding Hills.
7. In response to the investigation into this matter, the Respondent indicated that he moved from Suffield to Feeding Hills, “about two years ago[.]” The Respondent lives in Massachusetts with his wife and child. When asked, “Where did you consider ‘home’ on November 8, 2016?” he responded “Home is 239 maynard st feeding hills[.]”
8. The Respondent further stated that he “didn’t think twice” about where he should vote, but simply continued to vote where he had been, even though he had moved.
9. While he failed to properly update his voter registration prior to the November 8, 2016 election, an independent investigation confirmed that the Respondent did not cast a ballot in Massachusetts, and cast only one ballot in this election, the one he cast in Suffield.

DISCUSSION

10. According to the Commission, an individual's *bona fide* residence is the place where that individual maintains a true, fixed, and principal home to which he or she, whenever transiently located, has a genuine intent to return. *See, e.g., Complaint of Cicero Booker, Waterbury*, File No. 2007-157. In other words, "*bona fide* residence" is generally synonymous with domicile. *Id.*; *cf. Hackett v. City of New Haven*, 103 Conn. 157 (1925). The Commission has concluded, however, that "[t]he traditional rigid notion of 'domicile' has . . . given way somewhat but only to the extent that it has become an impractical standard for the purposes of determining voting residence (i.e., with respect to college students, the homeless, and individuals with multiple dwellings)." (Emphasis added.) *Complaint of James Cropsey, Tilton, New Hampshire*, File No. 2008-047. *See also, Wit v. Berman*, 306 F.3d 1256, 1262 (2d Cir. 2002) (stating that under certain circumstances domicile rule for voting residency can create administrative difficulties that might lead to its pragmatic application in New York); *Sims v. Vernon*, Superior Court, New London County, No. 41032 (Oct. 4, 1972) (considering issue of voter residency with respect to college students and stating that "a student, and a nonstudent as well, who satisfies the . . . residence requirement, may vote where he resides, without regard to the duration of his anticipated stay or the existence of another residence elsewhere. It is for him alone to say whether his voting interests at the residence he selects exceed his voting interests elsewhere.")
11. The Commission has further held that, where an individual truly maintains two residences to which the individual has legitimate, significant, and continuing attachments, that individual can choose either one of those residences to be their *bona fide* residence for the purposes of election law so long as they possess the requisite intent. *Complaint of James Cropsey, Tilton, New Hampshire*, File No. 2008-047. *See also Wit*, 306 F.3d at 1262 (quoting *People v. O'Hara*, 96 N.Y.2d 378, 385 (2001)).
12. Moreover, if an individual as established residency at a location, "only the Respondent's abandonment of the residence . . . will extinguish [his or] her right as an elector in that town." *Complaint of Carole Dmytryshak, Salisbury*, File No. 2012-197. *See also, Gold v. Gold*, 100 Conn. 607 (Conn. 1924) (holding that for personal jurisdiction purposes "the essentials upon which the conclusion of a change of domicile must rest are an intention to abandon the old domicile and to acquire a new one in another place where a residence has been established") (citing *Roxbury v. Bridgewater*, 85 Conn. 196; *Hoskins v. Matthews*, 57 Eng. Ch. 12); *Maksym v. Board of Education Com'rs of City of Chicago*, Illinois Supreme Court, Docket No. 111773 (Jan. 27, 2011), 2011 WL 242421 at *8 ("[O]nce residency is established, the test is no longer physical presence but rather abandonment. Indeed, once a person has established residence, he or she can be physically absent from that residence for months or even years without having abandoned it. . . .").

13. While it is often the case that when a respondent owns more than one home, he can chose which one he would like to use as his *bona fide* residence for voting purposes. However, in this case the Respondent has affirmatively indicated that his home in Massachusetts is his “home” and has lived with his family in a non-temporary fashion in Massachusetts. In the absence of an expressed intent to return to the his Suffield property, Suffield can no longer serve as his *bona fide* residence for voting purposes.

TERMS OF GENERAL APPLICATION

14. The Respondent admits 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.

15. The Respondent waives:

- 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.

16. Upon the Respondent’s agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondents regarding this matter.

17. 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 §§ 9-172 and § 9-7b.

For the Respondent:

For the State of Connecticut:

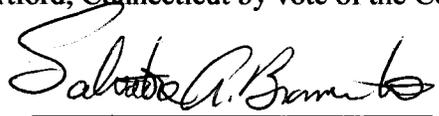
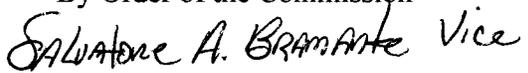
By: 
Christopher J. Ballard
239 Maynard St
Feeding Hills, MA 01030

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: 3/31/17

Dated: 4/5/17

Adopted this 19 day of April, 2017 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission
 Vice

RECEIVED
STATE ELECTIONS

APR 05 2017

ENFORCEMENT COMMISSION