

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Shirley Mosby, Norwalk

File No. 2017-046

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Stuart W. Wells, III and Karen Doyle Lyons (collectively 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:

PARTIES

1. At all times relevant hereto, Respondent Wells was the Democratic Registrar of Voters in the Town of Norwalk.
2. At all times relevant hereto, Respondent Lyons was the Republican Registrar of Voters in the Town of Norwalk.
3. At all times relevant hereto, Complainant Shirley Mosby was a candidate for the Board of Education in the Town of Norwalk.

ALLEGATIONS

4. Complainant makes numerous allegations against Respondents. Many of these allegations, even if true, would not amount to a violation within the jurisdiction of the Commission. However, Complainant does allege three violations that merited investigation: 1) that Respondents failed to provide a hard copy of the enrollment list free of charge; 2) that Respondents failed to maintain an up to date and accurate enrollment list; and 3) that Respondents improperly rejected signatures on Complainant’s petition.

COUNT I

ALLEGATION

5. Complainant alleges that Respondents failed to provide a paper copy of the enrollment list upon request.

LAW

6. General Statutes § 9-55, provides in pertinent part:

(a) The registrars shall cause to be printed at least once during the calendar year a sufficient number of copies of complete, corrected enrollment lists certified by them as correct, provided a supplementary or updated list shall be printed within one week after a session held on the fourteenth day before a primary.

....

(d) Whenever a list is required by this section to be printed within one week after the session held on the fourteenth day before the primary, a supplement to such list shall be compiled by the registrars of persons who after such date and prior to twelve o'clock noon of the last business day before the primary become eligible to vote in such primary. The registrars may combine such separate compilation with the foregoing printed list either by inserting the names in writing or by reprinting the list incorporating the supplementary or updated list into a single printed list.

(e) The registrars shall file one copy of each such list with the town clerk which copy shall be available for public use in the office of the town clerk until the printing of the next completed, corrected enrollment list; and they shall deliver to the chairman of the town committee of each political party five copies of each such list for each voting district in the town. Upon request the registrars shall give one complete set of such lists to each candidate for nomination for any office or for election as a town committee member....

7. General Statutes § 9-55a, further provides:

For the performance of the duties imposed by sections 9-55 and 9-57, each registrar, deputy registrar and other personnel appointed as provided in section 9-57 actually engaged in such duties and each municipal clerk shall receive such reasonable compensation from the municipality as is approved by the selectmen of the town, the warden and burgesses of the borough or the common council of the city or the consolidated town and city, as the case maybe; and all necessary expenses incurred by registrars and municipal clerks under the provisions of said sections shall be paid by the municipality.

FACTUAL BACKGROUND

8. In the summer of 2017, Complainant was seeking the Democratic Party nomination for a seat on the Norwalk Board of Education. When she did not receive the Democratic Party's

endorsement for that office, Complainant sought to collect petition signatures in order to force a primary pursuant to General Statutes §§ 9-400 *et seq.*

9. On July 21, 2017 Complainant requested that Respondents provide a “hard copy” of the Democratic Party enrollment list for Norwalk. Complainant was offered an electronic copy of the Democratic Party enrollment list free of charge, but Complainant was advised that she would have to pay \$0.50 per page for a hard copy.

DISCUSSION

10. In response to the instant complaint, Respondents admitted that they did not provide a printed copy of the enrolment list to the Complainant because of an office policy to charge \$0.50 per page for such documents. Such policy was based upon a reliance on the Freedom of Information Act’s provision allowing governmental entities to charge for the copying of public documents.
11. General Statutes § 9-55 (e) requires that “[u]pon request the registrars shall give one complete set of [the original and supplementary] lists to each candidate for nomination for any office or for election as a town committee member.” Moreover, municipalities are required to cover the costs associated with Registrars incurred in the performance of their duties pursuant to § 9-55a.
12. When faced with this identical issue previously, the Commission stated:

The Commission stresses the requirement for Registrars of Voters to provide candidates a printed voter registry list appears plain in General Statutes § 9-55 as well published by the Secretary of the State in its November 3, 2015 Municipal Election Calendar —Amended (1/5/15) that indicates: The registrars shall cause to be printed at least once during the calendar year a complete enrollment list and shall make such list available to the public upon request. (Sec. 9-55). Furthermore, the Commission concludes that any “necessary” expense incurred by Respondent as Registrar in the performance of his duties pursuant to § 9-55, as provided in § 9-55a, should have been “paid by the municipality.”

The Commission finds that Respondent's reliance on § 1-212 is misplaced, in that that section qualifies Freedom of Information requests and specifically limits its requirements where provision of public records are not “otherwise provided by state statute.” Additionally, in this instance, the Registrars are required to provide a voter registry list in printed form and “upon request” to a candidate pursuant to General Statutes § 9-55 and § 9-55a. Finally, the request and provision of a printed voter registry list is not a function of

Freedom of Information laws, but rather those of Elections Laws as detailed herein.

The Commission finds that Complainant, as a petitioning mayoral candidate, was entitled pursuant to General Statutes §§ 9-55 and 9-55a to receive from Respondent a printed enrollment list, upon request and gratis.

In the Matter of a Complaint by Alfred P. Mayo, New Britain, File No. 2015-005.

13. The Commission notes that physical copies of enrolment lists are often much more valuable to campaigns than electronic copies, as the pages are distributed to campaign workers for petition drives. If only electronic copies were made available, the cost of printing such lists would then be born by the candidate.
14. Accordingly, the Commission concludes that, in failing to provide a physical copy of the Democratic enrolment list, when the Complainant requested it, Respondents violated General Statutes §§ 9-55 and 9-55a.

COUNT II

ALLEGATION

15. The Complainant alleges that the enrollment list Respondents provided to the Complainant was not up to date.

LAW

16. General Statutes § 9-55 provides, in pertinent part:

(a) The registrars shall cause to be printed at least once during the calendar year a sufficient number of copies of complete, corrected enrollment lists certified by them as correct, provided a supplementary or updated list shall be printed within one week after a session held on the fourteenth day before a primary.

....

(d) Whenever a list is required by this section to be printed within one week after the session held on the fourteenth day before the primary, a supplement to such list shall be compiled by the registrars of persons who after such date and prior to twelve o'clock noon of the last business day before the primary become eligible to vote in such primary. The registrars may combine such separate compilation with

the foregoing printed list either by inserting the names in writing or by reprinting the list incorporating the supplementary or updated list into a single printed list.

(e) The registrars shall file one copy of each such list with the town clerk which copy shall be available for public use in the office of the town clerk until the printing of the next completed, corrected enrollment list; and they shall deliver to the chairman of the town committee of each political party five copies of each such list for each voting district in the town. Upon request the registrars shall give one complete set of such lists to each candidate for nomination for any office or for election as a town committee member....

FACTUAL BACKGROUND

17. On July 21, 2017 Complainant requested that Respondents provide a “hard copy” of the Democratic Party enrollment list for Norwalk. Complainant alleges that the list provided was not up to date.
18. An investigation of this allegation reveals that the registry list provided to Complainant was based upon the most recent update from the Secretary of the State’s Connecticut Voter Registration System (“CVRS”). In addition, Respondents perform an annual canvas of registered voters in the spring and the responses to such canvas were incorporated into the list provided to the Complainant.

DISCUSSION

19. It should be noted that it is not a requirement that an enrollment list be perfectly accurate. In fact, because most of the information contained in such list is self-reported by voters, there are often errors and inconsistencies in the enrollment lists through no fault of the Registrars tasked with maintain such list.
20. As Respondents took reasonable efforts to ensure the accuracy and primacy of the enrollment lists, and because there is insufficient information to substantiate the allegations, it is the conclusion of the Commission that that this Count should be dismissed.

COUNT III

ALLEGATION

21. Complainant alleges that Respondents improperly rejected the Complainant’s petitions to force a Democratic primary for the Norwalk Board of Education.

LAW

22. General Statutes § 9-412 provides:

Upon the receipt of any page of a petition proposing a candidacy for a municipal office or for member of a town committee, the registrar shall forthwith sign and give to the person submitting the petition a receipt in duplicate, *stating the number of pages filed and the date and time of filing and shall forthwith certify on each such page the number of signers on the page who were enrolled on the last-completed enrollment list of such party in the municipality or political subdivision, as the case may be, and shall forthwith file such certified page in person or by mail, as described in section 9-140b, with the clerk of the municipality, together with the registrar's certificate as to the whole number of names on the last-completed enrollment list of such party in such municipality or political subdivision, as the case may be, not later than seven days after receipt of the page.* If such page involves a municipal office to be voted upon at a state election, such registrar shall also file a certificate, on a form prescribed by the Secretary of the State, that includes the name and full street address of each candidate and the title and district of such office not later than seven days after receipt of such page. In checking signatures on primary petition pages, the registrar shall reject any name if such name does not appear on the last-completed enrollment list in the municipality or political subdivision, as the case may be. Such rejection shall be indicated by placing a mark in a manner prescribed by the Secretary before the name so rejected. The registrar may place a check mark before each name appearing on the enrollment list to indicate approval but shall place no other mark on the page except as provided in this chapter. The registrar shall not reject any name for which the street address on the petition is different from the street address on the enrollment list, if (1) such person is eligible to vote for the candidate or candidates named in the petition, and (2) the person's date of birth, as shown on the petition page, is the same as the date of birth on the person's registration record. The registrar shall reject any page of a petition which does not contain the certifications provided in section 9-410, or which the registrar determines to have been circulated in violation of any other provision of section 9-410. Petitions filed with the municipal clerk shall be preserved for a period of three years and then may be destroyed.

Emphasis added.

FACTUAL BACKGROUND

23. In the summer of 2017, Complainant was seeking the Democratic Party nomination for a seat on the Norwalk Board of Education. When she did not receive the Democratic Party's endorsement for that office, Complainant sought to collect petition signatures in order to force a primary pursuant to General Statutes §§ 9-400 *et seq.*
24. On August 4, 2017, Respondent Wells emailed Complainant to advise her that her campaign had submitted "very few primary petition pages . . . to date." Email from Stuart Wells, Norwalk Democratic Registrar of Voters, to Shirley Mosby, *et al.* (Aug. 4, 2017, 16:00 EST).
25. The deadline to submit petition pages to force a primary for the Norwalk Board of Education was August 9, 2017. See General Statutes § 9-405.
26. In order to qualify for a primary, Complainant needed to collect petition signatures from 942 registered Democrats in the Town of Norwalk. See General Statutes § 9-406.
27. By August 9, 2017, Complainant's campaign had submitted 1146 petition signatures for review by Respondent Wells.
28. On August 15, 2017, Respondent Wells notified Complainant that only 830 of the 1146 names on her petitions could be verified. Others were either duplicates, illegible, or not enrolled members of the Democratic Party.
29. Immediately after Respondent Wells completed his review of Complainant's petition signatures, Respondent Wells contacted Complainant and invited her to identify any petition signatures that she believed were improperly excluded. Complainant did not take Respondent Wells up on that offer.
30. Complainant generally alleges that the Respondent improperly rejected those petition signatures.
31. An independent review by Commission staff identified four rejected signatures that may have been both legible and belonging to properly enrolled members of the Norwalk Democratic Party. The remainder of the rejected signatures were either illegible or belonging to individuals not qualified to sign such a petition.
32. Even if those four signatures had been accepted as valid petition signatures, Complainant would still have fallen far short of the signatures required for her to qualify for a primary.
33. As the facts in this case do not support the allegation, it is conclusion of the Commission that this Count should be dismissed.

TERMS OF GENERAL APPLICATION

34. 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.
35. 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.
36. Upon Respondents' agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondents regarding this matter.
37. 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 Respondents shall henceforth strictly adhere to the requirements of General Statutes § 9-55 and 9-55a.

Respondent Stuart W. Wells, III :

By: Stuart W. Wells, III
Stuart W. Wells, III
Norwalk Democratic Registrar of Voters
125 East Ave.
Room 122
Norwalk, CT 06851-5125

Dated: 7/11/2018

For the State of Connecticut:

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

Dated: 7/14/18

Respondent Karen Doyle Lyons :

By: Karen Doyle Lyons
Karen Doyle Lyons
Norwalk Democratic Registrar of Voters
125 East Ave.
Room 122
Norwalk, CT 06851-5125

Dated: 7/11/18

Adopted this 18th day of July, 2018 at Hartford, Connecticut by vote of the Commission.

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

RECEIVED
STATE ELECTIONS

JUL 13 2018

ENFORCEMENT COMMISSION