

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Elaine Watson,
Stratford

File No. 2017-053

FINDINGS AND CONCLUSIONS

The Complainant filed this complaint with the Commission pursuant to Connecticut General Statutes § 9-7b, alleging that the Stratford Registrars of Voters violated § 9-437 because they failed to hold a public lottery to determine the horizontal listing order for the Democratic mayoral primary in the Town of Stratford on September 12, 2017. After investigation of this Complaint, the Commission makes the following findings and conclusions:

1. At all times relevant to this complaint and investigation, Richard T. Marcone was the Democratic Registrar of Voters for the Town of Stratford.
2. By way of background, no endorsement was made by the Stratford Democratic Town Committee for the office of mayor prior to the September 12, 2017 primary.
3. The September 12, 2017 Democratic primary ballot in Stratford included party endorsed candidates for Town Council in Row 2A, where appropriate, for each voting district. However, the ballot at Row 1A for Mayor indicated that there was "No Party Endorsement" and was left blank in each of the voting districts.
4. Each voting district, starting at Row 1B through Row 1D, contained the names of three mayoral candidates listed alphabetically by surname on the September 12, 2017 Democratic primary ballot.
5. General Statutes § 9-437 provides, in pertinent part:

(a) At the top of each ballot shall be printed the name of the party holding the primary, and each ballot shall contain the names of all candidates to be voted upon at such primary, except the names of justices of the peace. The vertical columns shall be headed by the designation of the office or position and instructions as to the number for which an elector may vote for such office or position, in the same manner as a ballot used in a regular election. The name of each candidate for town committee or municipal office, except for the municipal offices of state senator and state representative, shall appear on the ballot as authorized by each candidate. The name of each candidate for state or district office or for the municipal offices of state senator or state representative shall appear on the ballot as it appears on the certificate or statement of consent filed under section 9-388, 9-391, 9-400 or 9-409. On the

first horizontal line, below the designation of the office or position in each column, shall be placed the name of the party-endorsed candidate for such office or position, such name to be marked with an asterisk; provided, where more than one person may be voted for any office or position, the names of the party-endorsed candidates shall be arranged in alphabetical order from left to right under the appropriate office or position designation and shall continue, if necessary, from left to right on the next lower line or lines. ***In the case of no party endorsement there shall be inserted the designation “no party endorsement” at the head of the vertical column, immediately beneath the designation of the office or position. On the horizontal lines below the line for party-endorsed candidates shall be placed, in the appropriate columns, the names of all other candidates as hereinafter provided.***

...

(f) Within such row or rows for those whose names are contained in one primary petition, where more than one person may be voted for any municipal office or position, such names shall be arranged in alphabetical order from left to right under the appropriate municipal office or position designation. ***The names of all other candidates shall be placed in the appropriate columns in alphabetical order on the horizontal lines below the line or lines used for candidates whose names are contained in one primary petition,*** if any; provided where more than one person may be voted for any office or position, such names shall be arranged in alphabetical order from left to right under the appropriate office or position designation and shall continue, if necessary, from left to right on the next lower line or lines. [Emphasis added.]

6. Upon investigation, the Commission finds that three mayoral candidates qualified for that primary by filing petition pages with the Stratford Town Clerk with the requisite amount of signatures from Democratic party members.
7. The Commission further finds, that each of the three petitioning candidates in this matter did not appear on petitioning slates of candidates but rather submitted petition pages for themselves as single candidates.


8. Therefore, pursuant to General Statutes § 9-437 (f) the aforementioned three mayoral candidates should have been “...*placed in the appropriate columns in alphabetical order on the horizontal lines below the line or lines used for candidates whose names are contained in one primary petition,*” or slates of candidates.
9. In this case, the Commission finds that Mr. Marcone sought the advice of the Office of the Secretary of the State, Legislative and Elections Division (“SOTS”) pertaining to the proper configuration of the September 12, 2017 mayoral Democratic primary ballot where there was no party endorsed candidate and three qualified petitioning candidates. Furthermore, the Commission finds that the SOTS informed Mr. Marcone in writing that, where, such in this instance, petitions are filed that contain only a single candidate’s name “...*preference to row is determined between any and all such candidates alphabetically in the horizontal rows,*” beginning with Row B after the blank party-endorsed row.
10. The Commission concludes that General Statutes § 9-437 (f) under these specific circumstances *required* that the alphabetical listing of three non-endorsed mayoral candidates be arranged horizontally on the September 12, 2017 Democratic primary ballot in Stratford and therefore that section was not violated. This conclusion is consistent with a plain reading of the statute as applied to these facts, as well as written instructions by the SOTS pertaining to the specific facts and circumstances of the September 12, 2017 Democratic mayoral primary in Stratford.
11. After investigation therefore, the Commission concludes that the alleged violations by the Stratford Registrars of Voters were not supported by the facts or the law under these specific circumstances. The allegations are therefore dismissed.

ORDER

The following Order is recommended on the basis of the aforementioned finding:

That the matter be dismissed.

Adopted this 14th day of February of 2018 at Hartford, Connecticut


Anthony J. Castagno, Chairman
By Order of the Commission