

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Bernice C. Bartlett, East Hampton

File No. 2017-059

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Leonard J. Weir (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:

ALLEGATION

1. The Complainant alleged that the Respondent registered to vote and voted in East Hampton on November 8, 2016 when he was not a *bona fide* resident of that town.

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 § 9-19j provides the procedures for EDR in the State of Connecticut. Such requirements include that the voter must sign an affirmation that states:

I, the undersigned, do hereby state, under penalty of false statement, (perjury) that:

1. I am the person admitted here as an elector in the town indicated.
2. I am eligible to vote in the election indicated for today in the town indicated.
3. The information on my voter registration card is correct and complete.
4. I reside at the address that I have given to the registrars of voters.

5. If previously registered at another location, I have provided such address to the registrars of voters and hereby request cancellation of such prior registration.

6. I have not voted in person or by absentee ballot and I will not vote otherwise than by this ballot at this election.

7. I completed an application for an election day registration ballot and received an election day registration ballot.

.... (Signature of voter)



4. When registering to vote, an elector must declare under penalty of perjury, his *bona fide* residence on a form prescribed by the Secretary of the State. General Statutes § 9-20, provides in pertinent part:

(a) Each person who applies for admission as an elector in person to an admitting official shall, upon a form prescribed by the Secretary of the State and signed by the applicant, *state under penalties of perjury, his name, bona fide residence by street and number*, date of birth, whether he is a United States citizen, whether his privileges as an elector are forfeited by reason of conviction of crime, and whether he has previously been admitted as an elector in any town in this or any other state. Each such applicant shall present his birth certificate, drivers' license or Social Security card to the admitting official for inspection at the time of application. Notwithstanding the provisions of any special act or charter to the contrary, the application form shall also, in a manner prescribed by the Secretary of the State, provide for application for enrollment in any political party, including, on any such form printed on or after January 1, 2006, a list of the names of the major parties, as defined in section 9-372, as options for the applicant. The form shall indicate that such enrollment is not mandatory.

(Emphasis added).

5. 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.

6. Any person who votes in any election when not qualified to do so is subject to the civil penalty authority of the Commission. 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,

7. 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.

DISCUSSION

8. The Respondent presently resides in Manchester and lived in Andover during the November 8, 2016 election. The Respondent's mother lives in Middle Haddam (a village within the town of East Hampton). The Respondent uses his mother's Post Office Box in Middle Haddam for mail.
9. The Respondent's mother's street address is 191 Middle Haddam Rd., Middle Haddam, CT. The Respondent and his brother both own that property, but do not currently reside there.
10. The address on the Respondent's license is 195 Middle Haddam Rd., Middle Haddam, CT.
11. The Respondent claims that he must have filled out the address incorrectly when he applied for his license.
12. On November 8, 2016, the Respondent entered the East Hampton Election Day Registration location to register and vote via Election Day Registration.

13. The Respondent claims that he was told that he needed to use the address on his license. He did so, and claims that he did not know that the address was incorrect.
14. The Respondent admits that he has never lived at 195 Middle Haddam Rd.
15. The Respondent did not cast any other ballot in the November 8, 2016 election.
16. After the instant complaint was filed, the Respondent voluntarily withdrew his Middle Haddam voter registration and registered to vote in Manchester.
17. 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.")
18. 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)*).
19. Moreover, if an individual has 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 testis 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....").

20. In this case, the Respondent was not a current resident of Middle Haddam, and although he had an interest in his mother's home at 191 Middle Haddam, he expressed no intent to return to that home as a residence and was living in Andover at the time of the election.
21. Accordingly, the Commission concludes that, in registering to vote and voting in the Town of Greenwich on November 8 2016, the Respondent violated General Statutes §§ 9-12, 9-19j, 9-20, and 9-172.

TERMS OF GENERAL APPLICATION

22. 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.
23. 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.
24. 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.
25. 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.

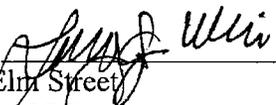
ORDER

It is hereby ordered that the Respondents shall henceforth strictly adhere to the requirements of General Statutes §§ 9-12, 9-19j, 9-20, and 9-172.

It is further ordered that a copy of this Order shall be provided to the Registrars of Voters for the Town of East Hampton who shall be directed to remove the Respondent from the Role of Voters for that town.

The Respondent:

For the State of Connecticut:

By: 
91 Elm Street
Unit 327C
Manchester, CT 06040

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

Dated: 4/5/18

Dated: 4/12/18

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


Anthony J. Castagno, Chairman
By Order of the Commission

RECEIVED
STATE ELECTIONS

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ENFORCEMENT COMMISSION