

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Peter Massaro, West Haven

File No. 2018-025

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Regina Milano, of the Town of Bethany, County of New Haven, State of Connecticut and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177 (c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. The Complainant here alleged that the Respondent abandoned bona fide residence at an address that she owned in West Haven in or about April 2016 and had moved to a property in Bethany, but remained registered at the West Haven address and may have continued to vote there from April 2016 through the filing of the instant Complaint in March 2018.
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. For purposes of this section a person shall be deemed to have attained the age of eighteen years on the day of the person's eighteenth birthday *and a person shall be deemed to be a bona fide resident of the town to which the citizen applies for admission as an elector if such person's dwelling unit is located within the geographic boundaries of such town.* No mentally incompetent person shall be admitted as an elector. . . .(Emphasis added.)
3. In addition to the statutory prongs of age, citizenship and geographic location identified above, an individual's bona fide residence must qualify as the place where that individual maintains a true, fixed, and principal home to which he or she, whenever transiently relocated, has a genuine intent to return. See, e.g., *Referral by Manchester Registrars of*

Voters, Manchester, File No. 2013-077; *In the Matter of a Complaint by Gary Amato, North Haven*, File No. 2009-158 (2010); *In the Matter of a Complaint by Cicero Booker, Waterbury*, File No. 2007-157. In other words, “bona fide residence” is generally synonymous with domicile. *Id.*; cf. *Hackett v. The 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.) *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047 (Emphasis added.). See also *Wit v. Berman*, 306 F.3d 1256, 1262 (2d Cir. 2002) (stating that under certain circumstances the domicile rule for voting residency can give rise to administrative difficulties which has led to a pragmatic application of that rule in New York); *Sims v. Vernon*, Superior Court, Fairfield County, No. 168024 (Dec. 22, 1977) (concluding that an absentee ballot of an individual should be counted as that individual was a bona fide resident of the town in which the ballot was cast.); *Farley v. Louzitis*, 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.”) (Emphasis added.)

4. The Commission has previously concluded that “[a]n individual does not, therefore, have to intend to remain at a residence for an indefinite period for that residence to qualify as that individual’s bona fide residence.” *Referral by Manchester Registrars of Voters, Manchester*, File No. 2013-081; (quoting *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047). Rather, the individual only has to possess a present intention to remain at that residence. *Id.*; see also *Maksym v. Board of Election Com’rs of City of Chicago*, Illinois Supreme Court, Docket No. 111773 (January 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. . . .”)
5. Voting in a referendum, primary, or election in which a person is not qualified is a violation of General Statutes § 9-7b (a)(2)(C), which reads:

(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,

6. The Respondent was prompt in her replies and thorough in responding to requests. The Respondent did not deny the allegations and admitted that while she purchased and lived in the property in West Haven from approximately February 1, 2001 forward, she actually moved to the property in Bethany on or about April 8, 2016 and has been renting out the West Haven property since that time.

7. The Respondent asserted in part that:

At the time I voted in the elections that are the subject of this case, I was under the good faith belief that I could vote in the Allingtown District for the primary and general elections of West Haven because I owned the 22 Forest Hills property each time I voted. I was also aware, at the time, a person owning property in West Haven could vote on the annual fire district budget regardless of where they resided.

After receiving this complaint, I learned that an elector can only vote in the municipality and district where he or she resides.

I was unaware of this at the time I voted and was told that I could vote in West Haven as a property owner. If I knew this at the time I would not have voted in West Haven;

This truly was an innocent mistake;

I have since corrected the problem by registering to vote in Bethany, Connecticut.¹

8. The investigation confirmed through the property records in West Haven that the Respondent purchased the property, a single-family home, on or about April 9, 2001 and remains the sole owner to date.

¹ The Connecticut Voter Registration System confirms that the Respondent transferred her registration to the Bethany address after the receipt of this Complaint.

9. The investigation confirmed through the property records in Bethany that the Respondent purchased the property, also a single-family home, on or about April 8, 2016 and remains the sole owner to date.
10. The Respondent registered to vote at the West Haven address on or about July 25, 2001 and was a dedicated voter in West Haven. Since she moved to Bethany, per her admission, she cast a ballot from the West Haven address during the following:
- | | |
|------------|---------------------------------|
| 03/06/2018 | Town Committee Primary |
| 11/07/2017 | Municipal General Election |
| 09/12/2017 | Municipal Primary |
| 11/08/2016 | State General Election |
| 08/09/2016 | State Primary |
| 04/26/2016 | Presidential Preference Primary |
11. As an initial matter, the question here is fairly straightforward concerning residency and liability. By her own admission and supported by the property records, the Respondent was not a bona fide resident at the West Haven address from approximately April 8, 2016 forward.
12. Although the Respondent remained the owner in fee of the West Haven address, she provided no claim and/or evidence of transient relocation and a genuine intent to return.
13. As such, the Commission concludes that the Respondent was not eligible to cast the ballots from that address for the 6 events listed above. Each vote constitutes a separate violation under General Statutes § 9-7b (a) (2) (C).
14. General Statutes § 9-7b (a) (2) (C) provides that the Commission may assess a civil penalty of 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. Pursuant to Regulations of Connecticut State Agencies § 9-7b-48, in determining the amount of a civil penalty, the Commission shall consider, among other mitigating and aggravating factors:
- (1) the gravity of the act or omission;
 - (2) the amount necessary to insure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions; and
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.

15. Casting a ballot from an address for which you do not maintain a valid bona fide residence is a serious matter. And the evidence maintained during the investigation here establishes that the Respondent cast ballots in West Haven on six occasions without having a true and fixed residence in town, despite owning property there. That said, there is no evidence that there were any primaries or elections during that period for which the Respondent's vote could have been the deciding ballot.²
16. There also does not appear to the Commission to be any bad faith at play here. The Respondent operated openly—all votes were in person and only in West Haven. She even served on the West Haven Democratic Town Committee for a time. Any claim of legal ignorance is not an excuse to liability, but in this case it appears to at least be genuine and is relevant to the Commission's determination of whether a civil penalty applies.
17. Additionally, this Respondent has no prior history in this area.
18. In consideration of the aforesaid aggravating and mitigating circumstances in this matter, the Commission concludes, and the Respondent agrees, that a civil penalty is unnecessary here and that an agreement and henceforth order will suffice in this matter to achieve future compliance. At the time she registered at the address, she was a bona fide resident there and did legitimately vote there for 15 years. The evidence suggests that her ignorance is genuine and as soon as she was presented with this Complaint, she moved her registration to Bethany. This outcome is consistent with outcomes in similar recent matters including *In the Matter of a Referral by the Greenwich Registrars of Voters*, File No. 2018-004 (violation but henceforth order where voter changed addresses within the same town and did not realize that she was in a new voting district and needed to change her registration); *In the Matter of a Complaint by Bernice C. Bartlett, East Hampton* File No. 2017-059 (violation but henceforth order where voter registered using EDR and cast ballot using address on his license, at which he no longer lived); *In the Matter of a Referral by the Greenwich Registrars of Voters*, File No. 2017-030 (violation but henceforth order where voter cast 2 ballots over a 7 year period from address at which she did not live but which remained on her driver's license).
19. The Respondent admits all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.

² By contrast, see *In the Matter of a Complaint by Allen Palmer, Groton*, File No. 2007-227, in which the Commission assessed a \$4,000 civil penalty where the respondent's single vote caused a tie in a general assembly primary in the district in which she should not have been voting

20. 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 contest the validity of the Order entered into pursuant to this Agreement.

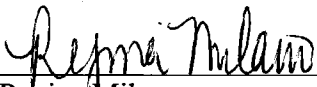
21. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if the same becomes necessary.

22. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings pertaining to this matter.

ORDER


That the Respondent will henceforth strictly comply with General Statutes § 9-7b and 9-12.

The Respondents:



Regina Milano
Bethany, CT

For the State of Connecticut:

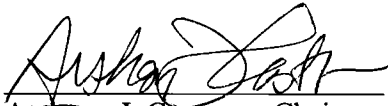
BY: 

Michael J. Brandi, Esq.
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT

Dated: MARCH 7, 2019

Dated: 3/10/19

Adopted this 20 day of March of 2019 at Hartford, Connecticut



Anthony J. Castagno, Chair
By Order of the Commission

Anthony J. Castagno, Chair

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APR 03 2019

ENFORCEMENT COMMISSION