

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Referral by the Preston Democratic Registrar of Voters                      File No. 2018-054

**FINDINGS AND CONCLUSIONS**

The Referring Official alleged that her counterpart, Republican Registrar of Voters Norman Gauthier, was absent for six weeks from his duties and failed to take part or have his deputy take part in the duties of the office for the June 12, 2018 referendum on the town wide budget.<sup>1</sup>

**Introduction**

1. As an initial matter, the Commission notes that Norman Gauthier is no longer the Republican Registrar of Voters for the Town of Preston, but was at all times relevant to the instant Complaint.
2. The Referring Official here alleged and submitted evidence that her counterpart, Norman Gauthier informed her in February 2018 that he would be on vacation during the June 12, 2018 referendum.
3. The Referring Official alleged that both Mr. Norman Gauthier and his Deputy Registrar Edward Gauthier (his son), failed to assist her in most of the duties leading up to the June 12, 2018 referendum, including but not limited to tabulator testing, and that neither were present at the open of polls.
4. She further asserts that due to the lack of a Republican Registrar or Deputy Registrar, Town Clerk Hattie Wucek refused to give her the absentee ballots until the Town Attorney intervened and Deputy Registrar Edward Gauthier arrived in the office and remained from approximately 1pm to 4pm only in said office.

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<sup>1</sup> The following are the Commission's findings and conclusions based on those portions of the Complainant's statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission's jurisdiction. Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission's jurisdiction.

## Law

5. As a general matter, the responsibilities of registrars are joint and several. Except where primaries are involve, the duties are shared between the registrars and the law does not specify that one or the other should complete such duty. See, e.g. *In the Matter of a Complaint by Catherine Magaldi-Lewis, Andover* File No. 2014-071 and *In the Matter of a Complaint by Marilyn Higgins, Hampton*, File No. 2013-105.
6. Indeed, in many cases, including the above-captioned matters, the Commission has declined to conclude that any violation occurred when one registrar has accused their counterpart of completing the duties of the office without the assent of them both. See also, *In the Matter of a Complaint by Mary Rydingsward, Bristol*, File No. 2013-040A.
7. For most duties required of registrars of voters, the law does not specify which registrar needs to perform the duty, merely that such duty must be performed. However, importantly, if such duty is performed incorrectly in violation of the law, *both* registrars are liable. See, e.g., *In the Matter of a Referral by the Secretary of the State*, File No. 2014-156 (Hartford registrars split their duties, which is permissible, but were each jointly and severally liable to perform any one duty, no matter which registrar was tasked to perform it).
8. However, there are limited circumstances in which certain duties cannot be performed unilaterally, including for instance, the testing of tabulators, which is enumerated in General Statutes § 9-247 and § 9-242a-5 of the Regulations of Connecticut State Agencies.
9. Another example is in General Statutes § 9-42 (c), which permits an elector on the inactive list to be restored at the polling place, provided they fill out a new registration form and “upon the consent of both registrars of voters or assistant registrars of voters, as the case may be, in the polls.”
10. However, there is a difference between performing a mandatory two-registrar duty *unilaterally without permission*—that is, doing it without the consent of a willing and/or available counterpart—and performing such duty when the counterpart either agrees or refuses to partake and/or is otherwise incapable of participating.
11. The former example is what the Commission found in the *Higgins* case—both registrars were in the building, but one registrar conducted the testing without the other present.
12. The Commission declined in *Higgins* to find a violation against the registrar who performed the testing on her own, as the facts were not clear that such unilateral performance was without the knowledge and/or tacit permission of her counterpart. The Commission *also*

declined to find a violation by the *other* registrar who failed to participate for the same reason.

13. While the Commission in *Higgins* was clear that tabulator testing *should* be performed by both registrars, it left open the possibility of the fact pattern that we find here, where one registrar willingly concedes this duty to the other and neither registrar faces liability.

### **Analysis and Conclusion**

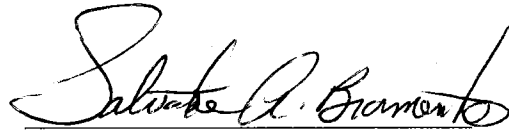
14. Here, the Referring Official alleges that Mr. Gauthier willingly declined to perform all of his duties of registrar for the June 12, 2018 referendum. However, there is no allegation that any of the duties were performed incorrectly and/or in violation of any law. Accordingly, and in consideration of the aforesaid, this matter should be dismissed.
15. However, this is not to say that Mr. Gauthier's apparent conduct—abandoning his counterpart to perform all of the duties of the office for an entire referendum—is not of concern to the Commission.
16. Indeed, in consideration of Mr. Gauthier's apparent failure to show up for the June 12, 2018 referendum and/or make arrangements for his deputy to act in his stead, had Mr. Gauthier not already left his post, the Commission would have referred this matter to the Secretary of the State under her authority in General Statutes § 9-190c to consider if such alleged conduct constituted “misconduct, wilful and material neglect of duty or incompetence in the conduct of” of his office.

ORDER

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

That the matter is dismissed.

Adopted this 17<sup>th</sup> day of October, 2018 at Hartford, Connecticut.



By Order of the Commission *Vice*

