

**STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint John Flynn, Norwalk

File No. 2018-114

**AGREEMENT CONTAINING A CONSENT ORDER**

The parties, Travis Simms (“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:

**INTRODUCTION** -

1. Complainant and Respondent were both candidates for State Representative in Connecticut’s 140th House District in the November 6th, 2018 general election. Complainant made numerous allegations concerning the Respondent’s conduct at the Columbus School polling location on Election Day. Most of the allegations, even if true, would not amount to a violation of any law within the Commission’s jurisdiction. However, two allegations were sufficiently related to the Commission’s jurisdiction that they resulted in an investigation.
2. First, Complainant alleged that Respondent was intimidating voters and caused people not to vote.
3. Second, Complainant alleged that the Respondent “set up a tent blocking the entrance and coralled [sic] the voters into a gauntlet.”
4. Finally, in the course of the investigation, evidence was discovered that suggested the Respondent may have been improperly present within the 75 foot zone leading to the entrance of the Columbus School polling location without a legally permissible reason to be there.

**COUNT I**

***Allegation***

5. Complainant alleged that Respondent was intimidating voters and caused people not to vote.

***Discussion***

6. The Complainant and Respondent were both candidates for State Representative in Connecticut's 140<sup>th</sup> House District in the November 6<sup>th</sup>, 2018 general election. On Election Day, both Respondent and Complainant were present at the Columbus School polling location.
7. In the complaint filed with the Commission, Complainant stated that:

My opponent, Travis Simms, Dance around throwing punches and jabs toward people blocking the entrance.

Many left without voting.

30 people complained of intimidation.
8. General Statutes § 9-364 provides that "Any person who, with intent to disenfranchise any elector, influences or attempts to influence by force or threat, bribery or corrupt, fraudulent or deliberately deceitful means any elector to stay away from any election shall be guilty of a class D felony."
9. A Commission investigator contacted every individual named by the Complainant in his complaint and identified by Complainant later as a potential witness to these alleged events. Such investigatory further contacted poll workers present on Election Day. No individual could corroborate Complainant's account that Mr. Simms was intimidating voters or blocking the entrance. Furthermore, the investigation revealed no evidence that any individual left the polling place without voting due to Respondent's alleged conduct.
10. Accordingly, this count should be dismissed.

## COUNT II

### ***Allegation***

11. Complainant alleged that Respondent “set up a tent blocking the entrance and corralled [sic] the voters into a gauntlet.”

### ***Discussion***

12. In addition to the prohibition on influencing voters by force or threat to not vote detailed in General Statutes § 9-364, General Statutes § 9-236 (a) provides:

On the day of any primary, referendum or election, no person shall solicit on behalf of or in opposition to the candidacy of another or himself or on behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach. Nothing contained in this section shall be construed to prohibit (1) parent-teacher associations or parent-teacher organizations from holding bake sales or other fund-raising activities on the day of any primary, referendum or election in any school used as a polling place, provided such sales or activities shall not be held in the room in which the election booths are located, (2) the registrars of voters from directing the officials at a primary, referendum or election to distribute, within the restricted area, adhesive labels on which are imprinted the words “I Voted Today”, or (3) the registrars of voters in a primary, election or referendum from jointly permitting nonpartisan activities to be conducted in a room other than the room in which the election booths are located. The registrars may jointly impose such conditions and limitations on such nonpartisan activity as deemed necessary to ensure the orderly process of voting. The moderator shall evict any person who in any way interferes with the orderly process of voting.

13. Setting up a tent within the seventy-five feet leading to the entrance of a polling place would clearly be in violation of such provision.

14. A Commission investigator contacted every individual named by the Complainant in his complaint and identified by Complainant later as a potential witness to these alleged events. Such investigator also contacted poll workers present on Election Day. No individual could corroborate Complainant's account that Respondent had a tent set up in an inappropriate location. Rather, photographic evidence showed that Respondent did have a campaign tent set up at the Columbus School polling location, and that such tent was outside the "75-foot zone" and such tent did not block the entrance to the polling location.

15. Accordingly, this count should be dismissed.

### **COUNT III**

#### ***Allegation***

16. In the course of the investigation, a Commission investigator discovered evidence suggesting that Respondent may have been improperly present within the 75 foot zone leading to the entrance of the Columbus School polling location without a legally permissible reason to be there.

#### ***Discussion***

17. As previously noted, General Statutes § 9-236 (a) provides:

On the day of any primary, referendum or election, no person shall solicit on behalf of or in opposition to the candidacy of another or himself or on behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach. Nothing contained in this section shall be construed to prohibit (1) parent-teacher associations or parent-teacher organizations from holding bake sales or other fund-raising activities on the day of any primary, referendum or election in any school used as a polling place, provided such sales or activities shall not be held in the room in which the election booths are located, (2) the

registrars of voters from directing the officials at a primary, referendum or election to distribute, within the restricted area, adhesive labels on which are imprinted the words "I Voted Today", or (3) the registrars of voters in a primary, election or referendum from jointly permitting nonpartisan activities to be conducted in a room other than the room in which the election booths are located. The registrars may jointly impose such conditions and limitations on such nonpartisan activity as deemed necessary to ensure the orderly process of voting. The moderator shall evict any person who in any way interferes with the orderly process of voting.

18. In this case, Complainant provided the Commission with date and time stamped photographs showing Respondent within the 75 foot zone leading to the entrance of the Columbus School polling location. The moderator of that polling location also provided Commission staff with a written statement that she had notified Respondent that he could not be present within the 75 foot zone leading to the entrance of the polling place.
19. When presented with this evidence, Respondent admitted that he had been walking voters to the entrance of the polling location on Election Day at the Columbus School polling place. He claimed that he was walking people to the door because it was raining and he was holding an umbrella and offering to keep them dry.
20. While the investigation revealed no evidence that Respondent was actively electioneering within the 75 foot zone leading to the entrance to the polling place, such a finding is not necessary to find a violation of General Statutes § 9-236 as mere "loitering" within the 75 foot zone is a prohibited act.
21. Accordingly, the Commission concludes that Respondent violated General Statutes § 9-236 (a) when he was improperly present within the 75 foot zone leading to the entrance of a polling place.
22. The Commission is empowered to levy a civil penalty of up to \$2000 against anyone found to be in violation of General Statutes § 9-236. General Statutes § 9-7b (a) (2).
23. Absent aggravating circumstances, the Commission has generally settled similar 9-236 violations with a henceforth order when the Respondent has had no other violations.

See *In the Matter of a Complaint by Linda Szykowitz, Middletown*, File No. 2016-093.

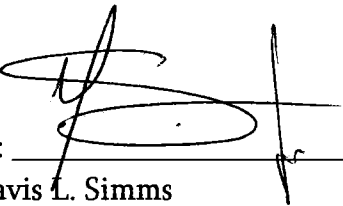
**TERMS OF GENERAL APPLICATION**

24. 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.
25. 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.
26. 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.
27. 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**

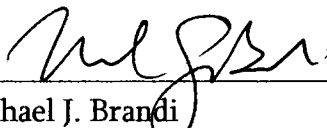
It is hereby ordered that the Respondents shall henceforth strictly adhere to the requirements of General Statutes § 9-236.

**The Respondent:**

By:   
Travis L. Simms  
28 Dr. Martin Luther King Jr. Dr.  
Unit 43  
Norwalk, CT 06854

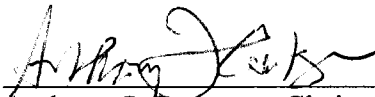
Dated: 9/26/19

**For the State of Connecticut:**

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: 11/1/19

Adopted this 16<sup>th</sup> day of October, 2019 at Hartford, Connecticut by vote of the Commission.

  
Anthony J. Castagno, Chairman  
By Order of the Commission