

**STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Referral by the Wallingford Registrar of Voters

File No. 2019-002

**AGREEMENT CONTAINING CONSENT ORDER**

This Agreement, by and between Bonnie Lee Lemelin, of the Town of Hamden, 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:

**Allegation**

1. The Referring Official is Wallingford Republican Registrar of Voters Chester "Chet" Miller.
2. The Referring Official alleged that Respondent Bonnie Lee Lemelin appeared at the EDR location in Wallingford during the hours of voting for the November 6, 2018 General Election and provided sufficient documentation of identity and residence in Wallingford to qualify.
3. According to the Referring Official, the Respondent identified an address in the Town of Hamden as her previously registered address on her EDR application for registration.
4. The Referring Official alleged that the Wallingford registrars followed standard EDR procedure and attempted to contact the Hamden registrars prior to allowing the Respondent to cast a ballot, but were unable to reach the Hamden registrars per the procedures for EDR voting outlined by the Secretary of the State pursuant to General Statutes §§ 9-3 and 9-19j, allowed the Respondent to register and vote.
5. The Referring Official alleged that subsequent to the General Election, the standard confirmation letter sent to the Wallingford address was returned as undeliverable on two occasions.

6. The Referring Official alleged that after receiving the undelivered letter two times, they contacted the Respondent, who told them that her residence was indeed the Hamden address, at which time they filed the instant Referral, as required by General Statutes § 9-19j (e) (2) (A).

**Law**

7. General Statutes § 9-7b (a) reads, 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,

8. 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.)

9. 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.)

10. 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. . . .”)

11. General Statutes § 9-19j outlines the procedures for voting using the Election Day Registration process and reads, in pertinent part:

(a) As used in this subsection and subsections (b) to (i), inclusive, of this section, “election day” means the day on which a regular election, as defined in section 9-1, is held.

(b) Notwithstanding the provisions of this chapter, a person who (1) is (A) not an elector, or (B) an elector registered in a municipality who

wishes to change his or her registration to another municipality pursuant to the provisions of subdivision (2) of subsection (e) of this section, and (2) meets the eligibility requirements under subsection (a) of section 9-12, may apply for admission as an elector on election day pursuant to the provisions of subsections (a) to (i), inclusive, of this section.

(c) (1) The registrars of voters shall designate a location for the completion and processing of election day registration applications on election day, provided the registrars of voters have access to the state-wide centralized voter registration system from such location.

(2) The registrars of voters may appoint one or more election officials to serve at such location and may delegate to such election officials any of the responsibilities assigned to the registrars of voters. The registrars of voters shall supervise such election officials and train such election officials to be election day registration election officials.

(d) Any person applying to register on election day under the provisions of subsections (a) to (i), inclusive, of this section shall make application in accordance with the provisions of section 9-20, provided (1) on election day, the applicant shall appear in person at the location designated by the registrars of voters for election day registration, (2) an applicant who is a student enrolled at an institution of higher education may submit a current photo identification card issued by said institution in lieu of the identification required by section 9-20, and (3) the applicant shall declare under oath that the applicant has not previously voted in the election. If the information that the applicant is required to provide under section 9-20 and subsections (a) to (i), inclusive, of this section does not include proof of the applicant's residential address, the applicant shall also submit identification that shows the applicant's bona fide residence address, including, but not limited to, a learner's permit issued under section 14-36 or a utility bill that has the applicant's name and current address and that has a due date that is not later than thirty days after the election or, in the case of a student enrolled at an institution of higher education, a registration or fee statement from such institution that has the applicant's name and current address.

(e) If the registrars of voters determine that an applicant satisfies the application requirements set forth in subsection (d) of this section, the

registrars of voters shall check the state-wide centralized voter registration system before admitting such applicant as an elector.

(1) If the registrars of voters determine that the applicant is not already an elector, the registrars of voters shall admit the applicant as an elector and the privileges of an elector shall attach immediately.

(2) If the registrars of voters determine that such applicant is an elector in another municipality and such applicant states that he or she wants to change the municipality in which the applicant is an elector, notwithstanding the provisions of section 9-21, the registrars of voters of the municipality in which such elector now seeks to register shall immediately notify the registrars of voters in such other municipality that such elector is changing the municipality in which the applicant is an elector. The registrars of voters in such other municipality shall notify the election officials in such municipality to remove such elector from the official voter list of such municipality. Such election officials shall cross through the elector's name on such official voter list and mark "off" next to such elector's name on such official voter list.

(A) If it is reported that such applicant already voted in such other municipality, the registrars of voters of such other municipality shall immediately notify the registrars of voters of the municipality in which such elector now seeks to register. In such event, such elector shall not receive an election day registration ballot from the registrars of voters of the municipality in which such elector now seeks to register. For any such elector, the election day registration process shall cease in the municipality in which such elector now seeks to register and such matter shall be reviewed by the registrars of voters in the municipality in which such elector now seeks to register. After completion of such review, if a resolution of the matter can not be made, such matter shall be reported to the State Elections Enforcement Commission which shall conduct an investigation of the matter. (Emphasis added.)

## Investigation

12. The investigation here—including interviews with the owner of the address, a rental—revealed that the Respondent had been living at a Wallingford address on South Cherry Lane listed on her EDR application from at least 2016 through a portion of 2017, but had moved out in April of 2017.

13. The investigation also confirmed that the Respondent had been living at a Hamden address on Town Walk Drive listed in her EDR application since moving out of the Wallinford address.

### **Response**

14. The Respondent, a masters student at Albertus Magnus College, was prompt in her reply, did not deny the allegations, and admitted that while she did once live at the Wallingford address, her actual physical and sole bona fide residence was in Hamden at the time she utilized the EDR process to cast the ballot.
15. She asserted that she drove to Wallingford, CT to vote in the November 6, 2018 election as she believed that she needed to have documentation to proving her residency at the Hamden address, but that the only documentation in her possession at the time had her old Wallingford address.
16. She asserted that she provided her driver's license and a bill, both of which included the Wallingford address.
17. She asserted that it was her good faith belief that she could legally vote at the Wallingford location with the documentation provided as long she only voted in one location.
18. She apologized for the failing to understand the rules regarding voting and bona fide residence.

### **Analysis**

19. Turning to the question here, the matter is fairly straightforward concerning residency and liability. By her own admission and supported by the investigation, the Respondent was not a bona fide resident at the Wallingford address from approximately April 2017 forward.
20. As such, she was not eligible to cast the ballots from that address. The Commission concludes that the Respondent violated General Statutes § 9-7b (a) (2) (C) for impermissibly casting a ballot in Wallingford instead of Hamden.
21. 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.
22. Casting a ballot from an address for which you do not maintain a valid bona fide residence is a serious matter. That said, there is no evidence that there was any particular race for which the Respondent's vote could have been the deciding ballot.<sup>1</sup>
23. There does not appear to be any bad faith at play here. This Respondent has no prior history in this area and acted openly—she declared her Hamden address on the EDR application.
24. The Commission's recent cases in this area have treated first-time offenders with a light touch when the evidence suggests that the voter simply did not understand that they were no longer permitted to vote at their prior voting address. The most similar to this one is *In the Matter of a Complaint by Peter Massaro, West Haven*, File No. 2018-025 (respondent voted in at least six primaries and elections from address that she owned but at which she no longer lived; henceforth order with no civil penalty)
25. *See also, 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 two ballots over a seven year period)
26. The last case in which the Commission fined a voter under similar facts occurred in *In the Matter of a Referral by Tina Gardner and Carole Young-Kleinfeld, Wilton*, File No. 2012-175. In *Gardener* the voter continued to remain registered at an address that was previously

---

<sup>1</sup> 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

his family home. Two of the votes were cast after he moved out, but while his parents still owned and resided in the home. A third vote was cast two years after his parents had sold it to someone unknown to him. The Wilton registrars were conscientious in keeping up their lists and moved him to inactive before the third vote, which required the voter to swear an oath that he was a bona fide resident at the address at the time he presented himself to vote. The Respondent in *Gardner* settled for a civil penalty of \$500 and a henceforth order.


27. In consideration of the Commission's prior cases in this area, along with 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. This was an address at which she previously maintained a bona fide residence. The evidence suggests that her ignorance was genuine and shortly after she was presented with this Referral, she took actions to remediate the issue.
28. 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.
29. 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.
30. 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.
31. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings pertaining to this matter.



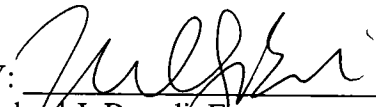
ORDER

That the Respondent will henceforth strictly comply with General Statutes § 9-7b, 9-12, and 9-17j.

**The Respondent:**

  
\_\_\_\_\_  
Bonnie Lee Lemelin  
Hamden, CT

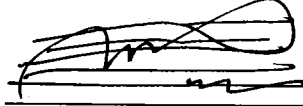
**For the State of Connecticut:**

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: Feb. 6, 2020

Dated: 2/11/2020

Adopted this ~~7<sup>th</sup>~~ day of February of 2020 at Hartford, Connecticut

  
\_\_\_\_\_  
h+et Anthony J. Castagno, Chair ~~Stephen Penny~~  
By Order of the Commission  
