

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

In the Matter of a Referral by the Office of the Secretary of the State,      File No. 2019-021  
Hartford

**AGREEMENT CONTAINING A CONSENT ORDER**

This Agreement, by and between Phylis Bernard, Linda Perkins and Danese Perron of the Town of Norfolk, State of Connecticut (hereinafter "Respondents") 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. This referral was dated February 14, 2019 and received by the Commission on February 19, 2019 from the Office of the Secretary of the State of Connecticut ("SOTS").
2. At all times relevant to this referral, Respondent Linda Perkins was the Norfolk Town Clerk, Respondent Phylis Bernard was the Norfolk Republican Registrar of Voters, and Respondent Danese Perron was Norfolk Democratic Registrar of Voters. Each held their respective offices during and after the November 6, 2018 general election in the Town of Norfolk.
3. SOTS Attorney Theodore Bromley, by memorandum referencing "Allegations of Misconduct during the November 6, 2018 General Election," included the following potential violation of elections law:

*Failure to comply with the provisions of CGS §9-322a within the Town of Norfolk. The failure to comply with the provisions created an election irregularity that caused a Recanvass to be called outside of the Recanvass period.*

4. This SOTS referral was docketed for further investigation by the Commission pursuant to General Statutes § 9-7-b. The Respondents have no prior history with the Commission.
5. General Statutes § 9-322a, provides in pertinent part:
  - (a) Not later than forty-eight hours following each regular election, the registrars of voters shall provide the results of the votes cast at such election to the town clerk. Not later than nine o'clock a.m. on the third day following each regular election, the head moderator, registrars of voters and town clerk for each town divided into voting districts shall meet to identify any error in the returns. Not later than one o'clock p.m. on the third day following each regular election,

the head moderator shall correct any error identified and file an amended return with the Secretary of the State, the town clerk and the registrars of voters.

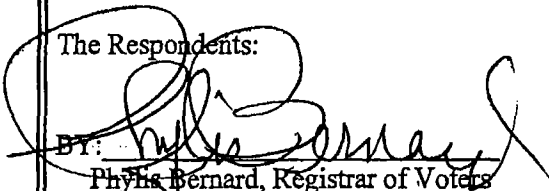
6. General Statutes § 9-311a, provides in pertinent part:  
For purposes of this section, state, district and municipal offices shall be as defined in section 9-372 except that the office of presidential elector shall be deemed a state office. Forthwith after a regular or special election for municipal office, or forthwith upon tabulation of the vote for state and district offices by the Secretary of the State, when at any such election the plurality of an elected candidate for an office over the vote for a defeated candidate receiving the next highest number of votes was either (1) less than a vote equivalent to one-half of one per cent of the total number of votes cast for the office but not more than two thousand votes, or (2) less than twenty votes, there shall be a recanvass of the returns of the voting tabulator or voting tabulators and absentee ballots used in such election for such office .... In the case of state and district offices, the Secretary of the State upon tabulation of the votes for such offices shall notify the town clerks in the state or district, as the case may be, of the state and district offices which qualify for an automatic recanvass and shall also notify each candidate for any such office. ...
7. The Commission finds that the original November 6, 2018 returns conveyed to the SOTS by the Town of Norfolk failed to account for absentee ballots cast. Further, the Commission finds that on November 14<sup>th</sup> the SOTS ordered a recanvass for Norfolk as part of the 64<sup>th</sup> General Assembly District based on its failure to submit corrected returns.
8. Upon investigation, the Commission finds that Respondent Perkins, as town clerk, and Respondent Bernard and Respondent Perron, as registrars of voters, did not meet to identify and correct errors in the returns from the November 6, 2018 election in Norfolk within three days of the November 6, 2018 election as required by General Statutes § 9-322a.
9. The Commission finds credible evidence that the Head Moderator John Sullivan did meet with the Respondent Bernard on the 7<sup>th</sup> to review the returns. Further, the Commission finds that they did attempt to correct the returns prior to sending them to the SOTS.

10. However, the Commission finds after investigation that as late as November 13<sup>th</sup> and 14<sup>th</sup> records indicate that Respondent, Head Moderator Sullivan and Respondent Perron were still working with the SOTS to reconcile their returns to include absentee ballot counts to the November 6, 2018 results. Subsequently, the SOTS, based on its tabulation of the Norfolk results, ordered a recanvass pursuant to General Statutes § 9-311a, for the 64<sup>th</sup> General Assembly District.
11. The Commission finds that Respondents failed to hold a meeting not later than three days after the November 6, 2018 Norfolk election to correct and change election results as required by General Statutes § 9-322a. Consequently, the Respondents could not identify and correct any errors in the returns pursuant to that section.
12. The Commission concludes therefore that Respondents violated § 9-322a by failing to meet within three days following the election to review and correct the November 6, 2018 returns.
13. The Respondents admit all jurisdictional facts and concur 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 Respondents shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
14. The Respondents waive:
  - 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.
15. 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 either of the parties in any subsequent hearing, if the same becomes necessary.

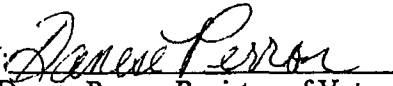
ORDER

IT IS HEREBY ORDERED that Respondents henceforth strictly comply with § 9-322a.

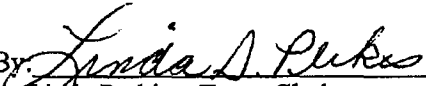
The Respondents:

BY:   
Phyllis Bernard, Registrar of Voters  
Town of Norfolk  
19 Maple Avenue  
Norfolk, Connecticut

Dated: 3/9/2020

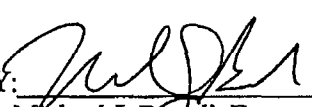
BY:   
Danese Perron, Registrar of Voters  
Town of Norfolk  
19 Maple Avenue  
Norfolk, Connecticut

Dated: March 9, 2020

By:   
Linda Perkins, Town Clerk  
Town of Norfolk  
19 Maple Avenue  
Norfolk, Connecticut

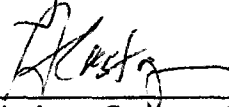
Dated: 3/09/2020

For the State of Connecticut

BY:   
Michael J. Brandi, Esq.  
Executive Director and General Counsel  
& Authorized Representative of the  
State Elections Enforcement Commission  
20 Trinity Street, Suite 101  
Hartford, Connecticut

Dated: 3/11/2020

Adopted this 20<sup>th</sup> day of May of 2020 at Hartford, Connecticut

  
Anthony Castagno, Chairman  
By Order of the Commission