

**STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Matthew O'Brien, et al, Coventry

File No. 2019-113

**FINDINGS AND CONCLUSIONS**

The Complainants brought this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that candidates Michael and Kelly Sobol of Coventry falsely signed circulator statements on both primary petitions and nominating petitions for their candidacies for Town Council and Board of Education, respectively.<sup>1</sup>

**Law**

1. General Statutes § 9-410 enumerates the form and procedural requirements for a primary petition for municipal office, including but not limited to the requirements for a circulator, and reads as follows:

(a) The petition form for candidacies for nomination to municipal office or for election as members of town committees shall be prescribed by the Secretary of the State and provided by the registrar of the municipality in which the candidacy is to be filed or duplicate petition pages shall be produced in accordance with section 9-409, and signatures shall be obtained only on such forms or such duplicate petition pages. Such form shall include, at the top of the form and in bold print, the following:

WARNING

IT IS A CRIME TO SIGN THIS PETITION

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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, ~~including~~ ~~statements by the Complainants that the candidates of the Complainants, Michael and Kelly Sobol, 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.

IN THE NAME OF ANOTHER PERSON  
WITHOUT LEGAL AUTHORITY TO DO SO  
AND YOU MAY NOT SIGN THIS PETITION  
IF YOU ARE NOT AN ELECTOR.

The form shall include thereon a statement of instructions to persons using the form and shall indicate the date and time by which it shall be filed and the person with whom it shall be filed. The form shall provide spaces for the names and addresses of the candidates, the offices to which nomination is sought or the positions to which election is sought and the political party holding the primary, and shall provide lines for the signatures, street addresses, dates of birth and the printing of the names of enrolled party members supporting the person or persons on behalf of whose candidacy the petition is used. Only as many candidates may be proposed in any one primary petition for the same office or position as are to be nominated or chosen by such party for such office or position; but any one primary petition may propose as many candidates for different offices or positions as there are nominations to be made or positions to be filled.

(b) The names of enrolled party members signing a primary petition need not all be on one sheet but may be on several sheets, but no person shall sign more than one petition page for the same candidate or candidates. Any person who signs a name other than the person's own to a primary petition filed under the provisions of this section or who signs a name other than the person's own as circulator of such a petition shall be fined not more than one hundred dollars or imprisoned not more than one year or both. Each such sheet shall indicate the candidate or candidates supported, the offices or positions sought and the political party the nomination of which is sought or which is holding the primary for election of town committee members. No page of such a petition shall contain the names of enrolled party members residing in different municipalities and any page thereof which has been certified by the registrars of two or more municipalities shall be rejected by the registrar. Withdrawal of petition signatures shall not be permitted.

(c) Each circulator of a primary petition page shall be an enrolled party member of a municipality in this state who is entitled to vote. Each petition page shall contain a statement signed by the registrar of the municipality in which such circulator is an enrolled party member attesting that the circulator is an enrolled party member in such municipality. Unless such a statement by the registrar appears on each page so submitted, the registrar shall reject such page. No candidate for the nomination of a party for a municipal office or the position of town committee member shall circulate any petition for another candidate or another group of candidates contained in one primary petition for the nomination of such party for the same office or position, and any petition page circulated in violation of this provision shall be rejected by the registrar. No person shall circulate petitions for more than the maximum number of candidates to be nominated by a party for the same office or position, and any petition page circulated in violation of this provision shall be rejected by the registrar. *Each separate sheet of such petition shall contain a statement as to the authenticity of the signatures thereon and the number of such signatures, and shall be signed under the penalties of false statement by the person who circulated the same, setting forth such circulator's address and the town in which such circulator is an enrolled party member and attesting that each person whose name appears on such sheet signed the same in person in the presence of such circulator, that the circulator either knows each such signer or that the signer satisfactorily identified the signer to the circulator and that the spaces for candidates supported, offices or positions sought and the political party involved were filled in prior to the obtaining of the signatures.* Each separate sheet of such petition shall also be acknowledged before an appropriate person as provided in section 1-29. Any sheet of a petition filed with the registrar which does not contain such a statement by the circulator as to the authenticity of the signatures thereon, or upon which the statement of the circulator is incomplete in any respect, or which does not contain the certification hereinbefore required by the registrar of the town in which the circulator is an enrolled party member, shall be rejected by the registrar. Any individual proposed as a candidate in any primary petition may serve as a circulator of the pages of such petition, provided such individual's service as circulator does not violate any provision of this section. (Emphasis added.)

2. General Statutes § 9-453j enumerates the circulator requirements for a nominating petition and reads as follows:

Each page of a nominating petition submitted to the town clerk or the Secretary of the State and filed with the Secretary of the State under the provisions of sections 9-453a to 9-453s, inclusive, or section 9-216 shall contain a statement as to the residency in this state and eligibility of the circulator and authenticity of the signatures thereon, signed under penalties of false statement, by the person who circulated the same. Such statement shall set forth (1) such circulator's residence address, including the town in this state in which such circulator is a resident, (2) the circulator's date of birth and that the circulator is at least eighteen years of age, (3) that the circulator is a United States citizen and not on parole for conviction of a felony, and (4) that each person whose name appears on such page signed the same in person in the presence of such circulator and that either the circulator knows each such signer or that the signer satisfactorily identified himself to the circulator. Any false statement committed with respect to such statement shall be deemed to have been committed in the town in which the petition was circulated.

### **Background**

3. The facts of this Complaint concern primary and nominating petition gathering conducted by Respondents Michael and Kelly Sobol of Coventry for their candidacies for Town Council and Board of Education, respectively, for the September 10, 2019 Republican Party Primary and November 5, 2019 General Election in the Town of Coventry.

### **Allegation**

4. The Complainants here are the Coventry Republican Town Committee and Matthew O'Brien, the Chair of the Coventry RTC.
5. The Complainants first alleged, and presented evidence in support, that Respondent Kelly Sobol signed circulator statements on at least two primary petition pages and two nominating petition pages supporting her candidacy when in fact it was Respondent Michael Sobol who circulated such pages and witnessed the signatures on such pages.

6. The Complainants further alleged, and presented evidence in support, that Respondent Kelly Sobol signed circulator statements on at least one primary petition page and one nominating petition page supporting her candidacy when in fact it was supporter Joan Oros who circulated such pages and witnessed the signatures on such pages.
7. The Complainants further alleged, and presented evidence in support, that Respondent Michael Sobol signed circulator statements on at least one primary petition page and one nominating petition page supporting his candidacy when in fact it was supporter Joan Oros who circulated such pages and witnessed the signatures on such pages.

## **Investigation**

### Primary Petitions

8. The investigation of the primary petitions here was limited as the facts concerning the validity of the Sobols' primary petitions were subject to litigation before the Connecticut Superior Court and such facts are dispositive here.
9. The Sobols brought a challenge under General Statutes § 9-329a as their primary petitions were rejected by the Republican Registrar of Voters in Coventry.
10. The pertinent facts developed in that case were that when the Sobols sought primary and nominating petition pages from Republican Registrar of Voters Pamela Sewell, Ms. Sewell provided them copies of petition pages that contained only the signature side of the page and they were missing the opposite side of the page that contained the circulator's statement of authenticity.
11. Ms. Sewell informed them that they needed only to fill out one circulator's statement for all of the signatures pages for each candidate and that such candidate should sign the statement on those pages circulated for their candidacy. As such, Michael Sobol signed the circulator statement for the pages for his candidacy and Kelly Sobol did the same for hers.
12. The Respondents submitted their primary petitions to Ms. Sewell, which contained more than enough signatures to qualify for a primary in both races.
13. Subsequently, Ms. Sewell recognized the error and informed the Respondents that she was required to reject their petition pages for lacking the appropriate circulator statements.
14. The Court, Judge Samuel Sferrazza, found that "the plaintiffs have demonstrated by a preponderance of the evidence that they were so misadvised and misled by the Registrar of

Voters, which led directly to the rejecting of their petitions.” The Court ordered a rescheduled primary for September 17, 2019, provided that Registrar Sewell reviewed the signatures and determined that the primary petitions otherwise met the statutory requirements.

15. Subsequent to the Court’s order, Registrar Sewell reviewed the signatures and certified that the Sobols both met the requirements for challenging the endorsed candidates in a primary in their respective races, and a primary was held on the court-ordered date.

*Nominating Petitions*

16. The investigation reviewed the questions over the nominating petitions, which were not subject to the aforementioned litigation.
17. The Sobols received the nominating petitions from the Secretary of the State and such petitions were double-sided and met the statutory requirements.
18. Registrar Sewell certified the signatures on the nominating petition pages and the Secretary certified that the Sobols met the lower threshold for placement on the General Election ballot by nominating petition.
19. As with the primary petition pages, the nominating petition pages for each candidate contained the signature of such candidate as the circulator in each instance.
20. In response to the instant Complaint, the Respondents admit that the circulator signatures on the pages do not all correlate with who actually circulated such pages. The Respondents assert that this is because they followed the same formula laid out for them by Registrar Sewell for the primary pages. That is, Kelly Sobol signed those nominating petition pages circulated for her candidacy and Michael Sobol did the same for his.

**Analysis**

21. General Statutes § 9-410 (c) and 9-453j both require that each individual who circulates a petition must provide an attestation under the penalties of false statement that each person who signed such petition did so in the circulator's presence, and that each signatory was either known to the circulator or satisfactorily identified him or herself to the circulator.
22. An implicit requirement of General Statutes § 9-410 (c) and 9-453j is that the circulator's attestation be true. Accordingly, if the circulator signed a petition statement that he or she

knew or reasonably should have known was untrue, that circulator will be deemed to have violated the statute concerning that particular petition. See *In the Matter of a Complaint by Maritza Gant, New Haven*, File No. 2018-047; *In the Matter of a Complaint by Harry A. Gagliardi, Jr., Hamden*, File No. 2017-042.

23. Intentional misrepresentation of the contents of a petition is a criminal violation of General Statutes § 9-368c.<sup>2</sup>
24. Turning to the questions here, the Commission concludes that as concerns the primary petition pages, there has already been a court of competent jurisdiction who found that many of the pages signed by the Sobols were out of conformance with the requirements of 9-410 (c), but that such nonconformance was as a direct result of Registrar Sewell's mishandling of the petitions.
25. Accordingly, while the Respondents noncompliance with § 9-410 (c) is a matter of undisputed fact, there is no need for the Commission to take any action under the unique circumstances of this case.
26. Moreover, while the court did not directly address the nominating petition pages, the pattern evidence is sufficient to support the Respondents' assertion that Registrar Sewell's bad advice carried over into that process as well.
27. As such, the Commission concludes that while the Respondents noncompliance with § 9-453j is a matter of undisputed fact, there is no need for the Commission to take any action on the nominating petitions under the unique circumstances of this case.

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<sup>2</sup> General Statutes § 9-368c reads:

(a) No person shall intentionally misrepresent the contents of a petition circulated under title 9.

(b) Any person who violates any provision of this section shall be guilty of a class D felony.”

ORDER

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

No further action.

Adopted this 4<sup>th</sup> day of November of 2020 at Hartford, Connecticut



~~Anthony J. Castagno, Chair~~

By Order of the Commission

Salvatore Bramante, Vice Chair