

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Joel Gonzalez, Bridgeport

File No. 2019-126

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Marilyn Moore, of the City of Bridgeport, County of Fairfield, 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:

Background

1. The allegations here concern the 2019 municipal election for Mayor of Bridgeport.
2. Respondent Marilyn Moore challenged the incumbent candidate in the Democratic Party Primary by gathering a sufficient number of petitions to qualify for the primary ballot.
3. Concomitantly, Ms. Moore's campaign also circulated nominating petitions to appear on the General Election ballot as a candidate under the Working Families Party line¹.
4. Ms. Moore was one of the circulators of the Working Families Party nominating petitions benefitting her for mayor, as well as Christopher Caruso and Alma Maya, candidates for Town Clerk and City Clerk, respectively.

Allegation

5. The Complainant alleged, and provided evidence in support, that Marilyn Moore did not witness at least two signatures on a nominating petition page on which she signed as circulator, that of Andrea Kelly and her husband Collin Kelly.

¹ Ms. Moore, Mr. Caruso's, and Ms. Mayas nominating petition effort was ultimately unsuccessful as they did not gather a sufficient number of qualifying signatures before the deadline.

Law

6. General Statutes § 9-453j enumerates the form and procedural requirements for a nominating petition, including but not limited to the requirements for a circulator, 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 (Emphasis added.)

7. General Statutes § 9-453j requires that each individual who circulates a petition must provide an attestation under the penalties of false statement that each person who signed that petition signed in the circulator's presence, and that each signatory was either known to the circulator or satisfactorily identified him or herself to the circulator.
8. An implicit requirement of General Statutes § 9-453j is that the circulator's attestation be true. Accordingly, if the circulator signed a General Statutes § 9-453j petition statement that he or she knew or reasonably should have known was untrue, that circulator will be deemed to have violated General Statutes § 9-453j. See *In the Matter of a Complaint by Carol D. Walter, Clinton*, File No. 2011-106 and *In the Matter of a Complaint by Donna Donovan, Glastonbury*, File No. 2000-226. See also, *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.

Investigation

9. The investigation here was straightforward. The investigation confirmed that petition signer Andrea Kelly did in fact sign her own name while she was approached at a farmer's market. She also confirmed that she signed on her husband's behalf, as her husband stood beside her.
10. Importantly, Ms. Kelly confirmed that the petition page was circulated by a man and not by Respondent Moore.

Response

11. The Respondent here was prompt in her reply and cooperative with the Commission's investigation.
12. In her reply to the instant Complaint, Respondent Moore generally denied that she knowingly signed a petition page as circulator on a page for which she did not witness every signature and asserted that every signature on every page circulated by her met the circulator obligations in § 9-453j.
13. In her response, Respondent Moore further asserted that while she could not state for certain, as she no longer could recall the particular names of the individuals she witnessed signing, she believed that it was possible that none of the signatures on the page submitted by the Complainant were witnessed by her, as she may have signed the wrong circulator's page at her campaign headquarters.
14. Respondent Moore posited that her campaign committee's system of collection and certification of pages may have been the proximate cause of the issue in this case. According to Respondent Moore, the candidate committee utilized multiple circulators, including Respondent Moore, but the circulation of petitions was coordinated centrally. After each circulator collected signatures, but before the rear portions of the pages were signed and certified by the appropriate parties (Circulator, attester, registrar, etc.), the pages were stored centrally at campaign headquarters in folders labeled with each circulator's name. When the campaign could coordinate the presence of both the circulator as well as an appropriate person to attest to such circulator's sworn signature (Respondent's campaign used an attorney), the pages were pulled from the folders and the signatures executed before the proper authority.

15. Respondent Moore speculated, but could not say for certain, that in the confusion of the campaign and due to the need to sign before an attorney who was not always available, it was possible that another circulator's page was inadvertently but incorrectly placed in her folder, which she did not know and had no reason to anticipate.

Analysis

16. Liability here is straightforward. The signatories confirmed that it was a gentleman, and not Respondent Moore, who circulated the petition page and witnessed the signatures.
17. Even assuming the truth of Respondent Moore's defense, petition pages are the individual responsibility of each circulator. *See, e.g., In the Matter of a Referral by Greenwich Registrar of Voters Fred DeCaro* File No. 2018-049 (Circulator misinformed by campaign contractor solely liable for improperly executed petition pages); *In the Matter of a Complaint by Francis Knipple and Janis Murtha, South Windsor* File No. 2006-202 (Section 9-453j violation where circulator acted under mistaken belief that she could entrust others to circulate on her behalf).
18. Accordingly, the Commission concludes that Respondent Moore violated General Statutes § 9-453j for falsely signing a sworn circulator statement on a page containing at least two signatures that she did not collect.

Resolution

19. 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.
20. Petition cases involving circulators is well trod ground before the Commission. The Commission has consistently held that circulators are solely responsible for verifying signatures. The Commission has largely held circulators strictly liable when a circulator signs a sworn circulator statement that later turns out to be false. *See, e.g., In the Matter of a Complaint by Alison C. Heimer, New Haven*, File No. 2013-111A through 2013-111E.

21. The Commission issued a severe penalty in *In the Matter of a Complaint by Donna Donovan, Glastonbury*, 2000-226 when the investigation revealed that the circulator did not witness any of the 701 signatures on almost 351 nominating petition pages that she signed on behalf of the Buchanan campaign for president. In *Donovan*, the civil penalty agreement was \$6,000 (reduced to \$2,500 due to financial hardship) for her violation of General Statutes § 9-453j.
22. The Commission issued a lighter civil penalty for a 9-453j violation in *In the Matter of a Complaint by Cynthia Curtis Simon, Newtown*, File No. 2001-158, which involved an admission that not all of the signatures on a single petition page were witnessed by the circulator. That matter settled for a civil penalty of \$200.
23. Relevant *primary* petition cases under 9-410, a substantially similar statute, largely have ended in civil penalties of \$300 per occurrence where the circulator's statement turned out to be false but made in good faith. See, e.g., *In the Matter of a Complaint by Ellen Camhi, Stamford*, File No. 2014-164; *In the Matter of a Complaint by Alison C. Heimer, New Haven*, File No. 2013-111A through 2013-111E.
24. This matter appears most similar to *In the Matter of a Complaint by Carol D. Walter, Clinton*, File No. 2011-106 and *In the Matter of a Complaint by Francis Knipple and Janis Murtha, South Windsor* File No. 2006-202 insofar as the respondents in *Walter* and *Knipple* also signed the circulator certification on a nominating petition page under a good faith misunderstanding, in violation of § 9-453j. In *Walter*, the respondent settled with the Commission for a civil penalty of \$300. The Respondent in *Knipple* settled for \$1,000, as the activity involved multiple pages and many signatures.
25. Respondent Moore has no prior history in this area and the evidence discovered during the investigation did not reveal any specific facts that would support a finding that she signed the circulator statement in bad faith.
26. The total potential liability here is a single violation of \$2,000. However, the Commission does not believe that a large penalty is warranted here—Respondent Moore was the candidate in a chaotic campaign against a popular incumbent, one which involved parallel petition drives for two different parties. Moreover, this issue is confined to a single page, and there is no evidence of willful conduct. Accordingly, considering the mitigating circumstances, a \$300 civil penalty is reasonable here, consistent with *Simon, Camhi, Heimer, and Walter*.

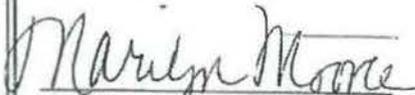
27. The Respondent admits all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
28. 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.
29. 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.
30. 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 § 9-453j.

That the Respondent will pay a civil penalty of \$300.

The Respondents:



Marilyn Moore
Bridgeport, CT

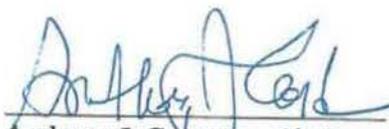
For the State of Connecticut:

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: 12/30/20

Dated: 1/13/2021

Adopted this 20 day of JAN of 2021 at Hartford, Connecticut


Anthony J. Castagno, Chair
By Order of the Commission