

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Philip Berns, Stamford

File No. 2020-028

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Stamford Democratic Registrar of Voters, Ron Malloy ("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:

Allegation

1. While the Complaint in this matter did not explicitly contain any allegations, from the documents included in the Complaint, it appears that Complainant was concerned that a card mailed by the Respondent, Ron Malloy, the Stamford Democratic Registrar of Voters contained inappropriate language concerning voter identification.

Statement of the Law

2. General Statutes § 261 (a) details what identification must be presented by a registered voter at a polling place in order to cast a ballot and provides:

In each primary, election or referendum, when an elector has entered the polling place, the elector shall announce the elector's street address, if any, and the elector's name to the official checker or checkers in a tone sufficiently loud and clear as to enable all the election officials present to hear the same. Each elector who registered to vote by mail for the first time on or after January 1, 2003, and has a "mark" next to the elector's name on the official registry list, as required by section 9-23r, shall present to the official checker or checkers, before the elector votes, either a current and valid photo identification that shows the elector's name and address or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the elector. Each other elector shall (1) present to the official checker or checkers the elector's Social Security card or any other preprinted form of identification which shows the elector's name and either the elector's address, signature or photograph, or (2) on a form prescribed by the Secretary of the State, write the elector's residential address and date of birth, print the elector's name and sign a statement under penalty of false statement that the elector is the elector whose name appears on the official checklist. Such form shall clearly state the penalty of false statement. A separate form shall be used for each elector. If the elector presents a preprinted form of identification under subdivision (1) of this subsection, the official checker or checkers shall check the name of such elector on the official checklist, manually on paper or electronically. If the elector completes the form under subdivision (2) of this subsection, the registrar of voters or the assistant registrar of voters, as the case may be, shall examine the information on such form and either instruct the official checker

or checkers to check the name of such elector on the official checklist, manually on paper or electronically, or notify the elector that the form is incomplete or inaccurate.

Statement of the Facts

3. On or about March 2020, the Town of Stamford held a Primary Election for the Stamford Democratic City Committee (the "SDCC Primary").
4. Prior to the SDCC Primary Respondent, Democratic Registrar of Voters Ron Malloy mailed a card to registered Democrats in the City of Stamford advising them of the SDCC Primary (the "SDCC Primary Card").
5. The card included language about the time date and location of the SDCC Primary.
6. At the bottom of the bottom of the SDDC Primary Card were the statements "PROPER IDENTIFICATION REQUIRED" and "This card does not qualify as proper ID".

Respondents Statement

7. Respondent provided a lengthy response to the instant complaint explaining the rational for the alleged conduct. In such statement, Respondent stated, "If I knew that using any language concerning identification was not acceptable to the State of Connecticut, I would never have put such information on any notice to the electors." and "If I had realized that the identity portion of the post-card would be or could be construed as suppressing the vote, I would never have allowed it to be printed on election notices."
8. Subsequent to the filing of the instant complaint Respondent Malloy agreed that he would (1) no longer include language misstating the law concerning voter identification on any mailer from his officer, and (2) not state or imply in any communication from his office that failure to bring pre-printed identification to the polls would prohibit an elector from casting a ballot.

Discussion

9. The allegations in this matter require the Commission to determine whether the statements on the SDCC Primary Card were, in fact, misstating Connecticut's voter identification requirements.
10. Moreover, the two statements included in the SDDC Primary Card require separate analysis. The first statement, "PROPER IDENTIFICATION REQUIRED" represents what Respondent believes is a true statement as a vote must present a valid form of identification or sign an affidavit as to his or her identity in order to vote pursuant to General Statutes § 9-261 (a). However, the Commission has already considered this issue and held, concerning a card mailed by another town's registrar of voters, "The Cards state that 'identification is required at the polls.' The Cards may be read as making an implicit, but not explicit request, for a form of existing written identification." *In the Matter of a Complaint by Daniel Garrett, Hamden*, File No. 2012-154A. This reasoning was further upheld by the Commission when it held that a sign outside of a polling place that read "ID Required" was improper. *In the*

Matter of a Complaint by Daniel Garret, Hamden, File No. 2015-174. Accordingly, based upon the Commission's prior decisions, a registrar of voters issuing a card stating "PROPER IDENTIFICATION REQUIRED" misrepresents the requirements of General Statutes § 9-261 (a).

11. Even if it did not, however, the SDCC Primary Card's statement that "This card does not qualify as proper ID" was clearly a misstatement of Connecticut's voter identification requirements. General Statutes § 9-261 (a) details that a voter can present "present to the official checker or checkers the elector's Social Security card or any other preprinted form of identification which shows the elector's name and either the elector's address, signature or photograph." An official mailing from a town's registrar of voters would qualify as a form of identification that shows the elector's name and address, and therefore, would qualify as proper identification.

Terms of General Application

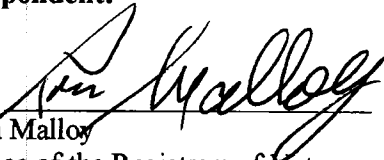
12. The Respondent admits to all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and order entered into after a full hearing and shall become final when adopted by the Commission.
13. The Respondent waives:
 - a. Any further procedural 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.
14. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent regarding this matter.
15. 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

By the consent and agreement of the Respondent, it is Ordered that:

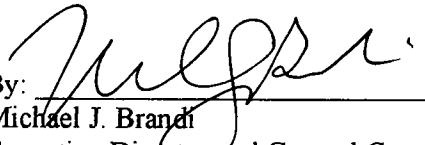
Respondent Malloy shall implement the agreed upon changes to the practices of his office referred to in paragraph eight of this Agreement Containing a Consent Order.

Respondent:

By: 
Ron Malloy
Office of the Registrars of Voter
PO Box 10152
Stamford, CT 06904-2152

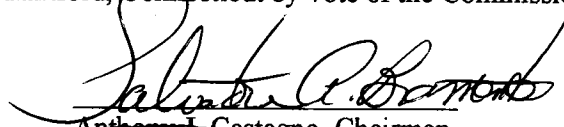
Dated: 10/20/20

For the State of Connecticut:

By: 
Michael J. Brandt
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St.
Hartford, CT 06106

Dated: 10/22/2020

Adopted this 4th day of November, 2020 at Hartford, Connecticut by vote of the Commission.


~~Anthony J. Castagno, Chairman~~
By Order of the Commission
Salvatore Bramante, Vice Chair