

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Fritz Blau,
Stamford

File No. 2021-041

AGREEMENT CONTAINING CONSENT ORDER

This Agreement by and between Josh Fedeli, City of Stamford, State of Connecticut, hereinafter referred to as "Respondent," and the undersigned authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance herewith, the parties agree that:

1. Complainant alleged that the Stamford Democratic Town Committee (SDTC), Respondent, as its Chairman, and SDTC Treasurer Jackie Heftman violated General Statutes § 9-140 (l) by mailing unsolicited absentee ballot applications without including the warning and requirements for the use of such absentee ballots.¹
2. More specifically Complainant alleged that:
Respondent mailed ... absentee [ballot] applications to registered voters accompanied by the letter here in. Said letter failed to comply with the Connecticut General Statute Section 9-140. Specifically, said section [9-140(l)] requires a party committee to provide a written warning that voting or attempting to vote by absentee ballot without meeting one or more such eligibility requirements subjects the elector to potential civil and criminal penalties.
3. Respondent has no prior history of violations with the Commission. At all times relevant to this complaint Respondent was the Chairman of the SDTC and Jackie Heftman was the Treasurer of the SDTC.
4. The mailing complained of pertained to a letter and solicitation by Respondent and the SDTC in support of a candidate to fill a vacancy in the 27th state senatorial district at a

¹ This complaint was received by the Commission on February 25, 2021. A second complaint by Ms. Linda Szykowitz was received on February 26, 2021. To the extent the latter complaint alleged violations within this Commission's jurisdiction, which rested on the same facts and law and involved the same parties herein, it is also treated within this disposition. The latter complainant did not otherwise allege facts, if proven true, upon which the Commission could conclude a jurisdictional violation.

March 2, 2021 special election. That mailing included absentee ballot applications along with the solicitation.

5. General Statutes § 9-140, provides in pertinent part:

...
(1) **No candidate, party or political committee**, or agent of such candidate or committee **shall mail unsolicited applications for absentee ballots to any person, unless such mailing includes: (1) A written explanation of the eligibility requirements for voting by absentee ballot** as prescribed in subsection (a) of section 9-135, **and (2) a written warning** that voting or attempting to vote by absentee ballot without meeting one or more of such eligibility requirements subjects the elector or applicant to potential civil and criminal penalties. As used in this subsection, “agent” means any person authorized to act on behalf of another person.
[Emphasis added.]

6. Commission Precedent and General Statutes § 9-140²

General Statutes § 9-140 (1) requires that a written explanation of the eligibility requirements for voting by absentee ballot and a written warning regarding voting by absentee ballot, when ineligible to do so, be included with absentee ballot applications when unsolicited dissemination occurs. Furthermore, the Commission has consistently found violations of § 9-140 (1) when such written explanations and warning are not included with unsolicited absentee ballot applications are disseminated by mail. *See Complaint by Jonathan Best, Stratford, File No. 2009-081; Complaint by David Helming, Sharon, File No. 2009-154; and, Complaint by Scott Veley, Berlin, File No. 2011-011. In Referral by Stacey Gravino, East Haven Town Clerk, File No. 2015-132B* (where Respondent disseminated unsolicited absentee ballot applications on behalf of a town committee without including the requirements and warnings as required by § 9-140 (1) and was required to henceforth comply with that section).

² The Commission notes that the Office of the Secretary of the State in applying Executive Order 10E, which was issued by Governor Lamont to address the Covid 19 pandemic, provided a formal opinion that Covid 19 was an acceptable basis to meet the requirements of an individual to choose to vote by absentee ballot. That opinion did not impact the requirements of General Statutes § 9-140 pertaining to the dissemination of unsolicited absentee ballots by a committee.

7. By way of background, it is not disputed that the SDTC produced and disseminated the mailings that are subject of this complaint. Furthermore, it is not disputed that those mailings contained unsolicited absentee ballot applications without the requisite printed requirements for use of such ballots or printed warnings of penalties for misuse of absentee ballots pursuant to General Statutes § 9-140 (1).
8. After investigation and based on Respondent's acceptance of responsibility in this matter, as detailed herein, the Commission declines to take further action against Ms. Heftman, who was provided notice by the Commission that she was a potential Respondent in this matter as SDTC Treasurer.³
9. The Commission finds Ms. Heftman credible in her assertion that she was unaware of the contents of the SDTC mailing complained of at the time of its production and dissemination. Additionally, the Commission finds that Ms. Heftman made expenditures for the production and dissemination of these mailings that contained absentee ballot applications and subsequently reported such expenditures on campaign finance statements as treasurer of the SDTC.
10. The Commission finds that Respondent cooperated with this complaint and investigation process. The Commission finds that in response to Complainant's allegations Respondent (1) claimed full responsibility for the mailings; and (2) asserted that errors or omissions regarding requirements for disseminating unsolicited absentee ballot applications were his own.
11. The Commission finds, in response to this complaint and investigation, Respondent asserted that the SDTC sent out absentee ballot applications by mail to Democrats who had voted in November 2020 by absentee ballot. Respondent claims that he genuinely believed that the written requirements and warnings within the absentee ballot applications themselves satisfied the "spirit" of General Statutes § 9-140 (1); and that the SDTC acted in good faith in disseminating the absentee ballot applications within the mailing that is subject of this complaint.

³The Commission notes that, as a potential Respondent, Ms. Heftman had participated and cooperated throughout the complaint and investigation process and will be provided with the disposition in this matter. Therefore, Ms. Heftman is deemed moving forward with actual notice of the requirements of General Statutes § 9-140 (1) generally; and, more specifically, as they pertain to the unsolicited dissemination of absentee ballots by a party (Town) committee.

12. Finally, Respondent, during this investigation, offered to include the written requirements for use of absentee ballots and written warnings against their misuse in any future mailings by the SDTC for upcoming elections.

13. The Commission concludes that the SDTC's dissemination of absentee ballot applications prior to the March 2, 2021 special election in 27th state senatorial district without separate written requirements for the use of absentee ballots and warning of the penalties for the use of absentee ballots violated General Statutes § 9-140 (l).

14. As enumerated in § 9-7b-48 of the Regulations of Connecticut State Agencies:

In its determination of the amount of the civil penalty to be imposed, the Commission shall consider, among other mitigating or aggravating circumstances:

- (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.

15. The Commission deems, consistent with its precedent⁴ and regulations, that an order requiring Respondent to henceforth strictly comply with General Statutes § 9-140 (l) is both sufficient and reasonable to ensure Respondent's adherence to that sections requirements under these specific facts and circumstances. *See generally, Complaint by Thomas Frenaye, Suffield, File No. 2014-038; and, Complaint by David G. LaPointe, Winsted, File No. 2014-129.*

16. The Respondent admits all jurisdictional facts and concurs 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.

⁴ The Commission has found, albeit in applying § 9-140 (k), that where Respondents have had no prior history with the Commission, have otherwise attempted to disseminate absentee ballots correctly and in good faith, and in the absence of attempts by Respondents to mislead or coerce individuals as to the use of absentee ballots, that a henceforth order was sufficient to settle the matters when dealing with the process by which absentee ballots are disseminated. *See generally, Complaint by Thomas Frenaye, Suffield, File No. 2014-038; and, Complaint by David G. LaPointe, Winsted, File No. 2014-129.*

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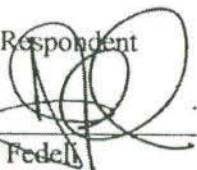
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17. The Respondent waives:
- a. Any further procedural steps;
 - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this Agreement.
18. 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 the Respondent shall henceforth strictly comply with General Statutes § 9-140 (l).


The Respondent

By: 
Josh Fedella
133 Vine Road
Stamford, Connecticut

Dated: 8/17/21

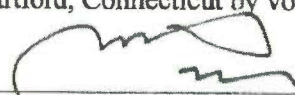
Address Change
66 Mary Videl Rd
06907

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 Street, Suite 101
Hartford, Connecticut

Dated: 9/15/2021

Adopted this 15th day of Sept., 2021 at Hartford, Connecticut by vote of the Commission.


Stephen T. Penny, Chairman
By Order of the Commission