

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by Dayna Arriola and Mary Oliver,
Hampton Registrars of Voters

File No. 2022-003

AGREEMENT CONTAINING CONSENT ORDER

This Agreement by and between Shannon Haddad, Town of Hampton, 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. The Hampton Registrars of Voters, made this referral alleging that Respondent, as Hampton Town Clerk, failed to accurately print the November 2, 2021 Hampton municipal ballot and misspelled a candidate's name on the ballot. Further they alleged that Respondent continued her duties as town clerk and was in the polling place while her name appeared on the ballot as a candidate for a different office. Finally, the ROVs alleged that Respondent failed to provide placement of endorsed candidate name on all rows they were eligible for on the ballot and failed to re-issue absentee ballots after original ballot was revised.

Allegations

2. This referral makes a number of allegations related to the Town Clerk's administration of her duties in the November 2, 2021 municipal election in the Town of Hampton. Allegations within this Commission's jurisdiction¹ are delineated as follows:

- 1) *Error in preparing the ballot; including offices that were not in fact up for election in possible violation of General Statutes § 9-250, et seq.*
- 2) *Error in preparing the ballot; failing to include candidate on all lines in which he was endorsed, in possible violation of General Statutes § 9-250, et seq.*

¹ See General Statutes § 9-7b (a). The Commission, but for its factual analysis and findings, does not take up in this instance any allegations included with this referral outside of Title 9, General Statutes.

3) *Failure to re-issue Absentee Ballot to 8 electors who submitted ABs before a change was made to the ballot due to a withdrawal of a candidate; in possible violation of General Statutes § 9-153c.*

4) *Misspelling name of candidate on the ballot; in possible violation of General Statutes § 9-250.*

5) *Town Clerk performing the duties of her office, including entering a polling place in which ABs were being counted, despite being a candidate appearing on the ballot for another office (Board of Ed); in possible violation of § 9-236 (c).*

3. General Statutes § 9-250, provides:

Ballots shall be printed in plain clear type and on material of such size as will fit the tabulator, and shall be furnished by the registrar of voters. The size and style of the type used to print the name of a political party on a ballot shall be identical with the size and style of the type used to print the names of all other political parties appearing on such ballot. The name of each major party candidate for a municipal office, as defined in section 9-372, except for the municipal offices of state senator and state representative, shall appear on the ballot as authorized by each candidate. The name of each major party candidate for a state or district office, as defined in section 9-372, or for the municipal office of state senator or state representative shall appear on the ballot as it appears on the certificate or statement of consent filed under section 9-388, subsection (b) of section 9-391, or section 9-400 or 9-409. ... Such ballot shall contain the names of the offices and the names of the candidates arranged thereon. The names of the political parties and party designations shall be arranged on the ballots and followed by the word "party", either in columns or horizontal rows as set forth in section 9-249a, immediately adjacent to the column or row occupied by the candidate or candidates of such political party or organization. ... If, at any election, one candidate is to be elected for a full term and another to fill a vacancy, the official ballot

containing the names of the candidates in the foregoing order shall, as a part of the title of the office, designate the term which such candidates are severally nominated to fill. ...

4. General Statutes § 9-153c, provides:

(a) If a municipal clerk has omitted the name of a candidate, party or office designation, inserted an incorrect or misspelled name of a candidate, party or office designation, provided an absentee ballot applicant with a ballot which is not the correct ballot for his voting district, or incorrectly imprinted or failed to imprint the designation of a state or local question on an absentee ballot in the appropriate space, and if any such omission or error is likely to mislead any voter, *he shall, as soon as he becomes aware of such omission or error, promptly mail to each applicant to whom such an absentee ballot has been issued, a correct absentee ballot, envelopes for its return and instructions, a statement explaining the error or omission including the correct name or question and a copy of this section. The municipal clerk shall inform the Secretary of the State when he proceeds under this subsection.*

(b) Any additional absentee voting sets issued to applicants under this section shall be issued in consecutive ascending numerical order based upon the serial number appearing on the outer envelope for return of ballots to the municipal clerk, and the clerk shall keep a record of such numbers by making a notation on, or attaching a memorandum to, the applicant's original application for an absentee ballot.

...

[Emphasis added.]

5. General Statutes § 9-236, provides in pertinent part:

(c) No person shall be allowed within any polling place for any purpose other than casting his or her vote, except (1) those permitted or exempt under this section or section 9-236a, (2) primary officials under section 9-436, (3) election officials under section 9-258, including (A) a municipal clerk or registrar of

voters, who is a candidate for the same office, performing his or her official duties, and (B) a deputy registrar of voters, who is a candidate for the office of registrar of voters, performing his or her official duties, or (4) party checkers under section 9-235. ...

Respondent's Response

6. Respondent provided a written response as well as a detailed timeline of events with supporting documents in cooperating with Commission staff in this thorough investigation.

Excerpts of her response follow:

Irregularities regarding the Municipal Ballot. The creation of a final ballot for the Municipal Election is a process. As Town Clerks, we work closely with the Office of the Secretary of the State ... our Registrars of Voters, and the printing company to ensure the final version is accurate. I have documentation regarding every change and update that was made during the process. Changes/updates [were] made immediately when required and corrections were made as part of a collaborative process between all four parties. When a position became vacant, I added it to the ballot at the appropriate time; and when it was determined that a position was not in fact vacant, it was removed. When a candidate became cross- endorsed the ballot was updated immediately; and when a candidate removed himself, the ballot was again reprinted as required and advised by the Secretary of the State's office. No ballots were re-issued, again, per the direction of the Secretary of the State's office.

Town Clerk Performing Official Duties on Election Day. On Election Day, I reported for work at IOAM as usual, began reviewing my absentee ballots, verifying them in CVRS and prepared to turn the majority over to the ROV's and Moderator of AB's at the time we agreed to. My Assistant came in at 11AM and remained in the office for the remainder of the day (until 4PM). He performed all of the daily "routine" tasks with the exception of absentee ballots. Frankly, I was not aware that because I was also running for another office that I was not supposed to perform my duties. Again, this was an honest mistake and a lesson I have learned.

... I am a new Town Clerk (I served my first term from January 2020- Jan 2022) and am grateful to be able to rely on mentors from the CT. Town Clerks Association and all of the resources available to us through various State Agencies. I am also taking advantage of the Educational opportunities through the CTCA's certification program. There is much to learn.

Facts After Investigation

7. Respondent provided a detailed timeline and dozens of contemporaneous emails addressing the handling of the various issues while producing the ballot for the November 2, 2021 election.
8. The Commission finds the emails show continuous communications between the Respondent and Heather Augeri of the Office of the Secretary of the State ("SOTS" and provide detailed information about how Respondent kept in contact with the ROVs as the various issues and solutions arose during the production of the ballot in the run-up to the municipal election in Hampton. The emails and documents submitted provide a response to the allegations as posed by the Registrars of Voters and are addressed in turn below.

Allegation One – Alleged Failure to Accurately Treat Vacancy on Ballot § 9-250

9. Respondent provided detailed contemporaneous emails² to support her denial of violating the law with regard to a vacancy and the ballot for a position on the Planning and Zoning ("P&Z").
10. After investigation, it was determined that Respondent on July 22, 2022, the day she received a withdrawal letter by a candidate for the P&Z, contacted Hether Augeri at the SOTS to inform her, update her as to reaching out to the town committee chairs regarding the withdrawal and seek further assistance moving forward.
11. Further, the Respondent updated for the SOTS the list of candidates and received guidance regarding the process to fill the vacancy as well as to update the ballot, which was followed.

² Respondent provided the following emails to support her denial of Allegation One: 08/12/21 Email from Respondent to SOTS (H. Augeri) (Regarding P&Z seat NOT being vacant – how to address situation on ballot); 08/12/21 Email from Respondent to ROVS (notification that seat on P&Z was NOT vacant); 08/13/21 Email from SOTS (H. Augeri) (Instructions regarding fixing P&Z ballot issue); and, 08/17/21 Email from Respondent to SOTS (H. Augeri) (Submission of Revised ED-102 Form with removal of P&Z "vacancy.")

12. The Commission must determine whether a violation occurred where the facts indicate that the Respondent as town clerk, upon being made aware of a candidate's withdrawal worked with the SOTS to successfully move forward with both the potential for re-filing that candidacy, amending the list of offices to be filled and candidates for the Hampton November 2, 2021 municipal election and revising the ballot accordingly.

Allegation Two -- Alleged Failure to Properly Prepare Ballot re. Endorsements Violation of General Statutes § 9-250, et seq.

13. Respondent provided the contemporaneous emails³ in response to her alleged failure to include candidate on all lines in which he was endorsed, which she denies.
14. After investigation, the evidence indicates that Respondent worked with both ROVs and Leanne Hollenbeck of LHS printers to respond changes based on the documents of endorsement that she received from the Hampton Republican Town Committee.
15. Specifically, the Commission finds that records indicate that Respondent acknowledged to the ROVs the changes made to the ballot based on endorsements and submitted a draft proof based on the endorsements to Ms. Hollenbeck of LHS so the ballot would reflect the endorsements.

Allegation Three -- Alleged Failure to re-issue absentee ballots after withdrawal -- § 9-150c

16. Respondent provided a detailed timeline and contemporaneous emails⁴ regarding the alleged failure to re-issue absentee ballots after a candidate withdrawal.

³ Respondent provided the following detailed response to her denial of Allegation Three: 10/12/21 Email from Arriola to Respondent (letter of withdrawal of Juan Arriola from BOE vacancy); 10/12/21 Email from Arriola to H. Augeri (SOTS) (notification of candidate withdrawal – request guidance regarding reprint re: issue); 10/12/21 Email from Respondent to Arriola and Oliver (notice of receipt of withdrawal letter); 0/21/21 Email from Respondent to H. Augeri (SOTS) (updated list of nominees to SOS based on withdrawal); 10/14/21 Email from Respondent to L. Hollenbeck (LHS) (confirmation re: (1) reprint ballots (2) no need to re-issue unless requested by voter (3) black out ballots until new ballots received); 10/14/21 Email from Respondent to Arriola and Oliver (confirmation re: (1) instructions by SOS (2) confirmation regarding how many ballots were issued prior to resignation (3) confirmation that ballots will not be reissued unless requested); 10/14/21 Email from L. Hollenbeck (LHS) to Respondent (proof and approval/re-order forms); 10/14/21 Email from Respondent to Arriola and Oliver (notification of re-ordered ballots); and, 10/21/21 Email Respondent to Arriola and Oliver (notice that new ballots are in vault).

17. After investigation, the Commission finds that it can be determined and documented that Respondent remained in contact with SOTS Staff regarding the re-issuance of absentee ballots when a ballot is revised after they have been issued. Respondent kept SOTS staff member Augeri apprised of the situation. Ms. Augeri advised her that she need not re-issue absentee ballots unless they were specifically requested. This advice was contemporaneously shared by Respondent with the ROVS.
18. General Statutes § 9-153c (a) creates an affirmative duty to re-issue absentee ballots including when a printing “omission or error” has occurred. That section does not include, as in this instance, when a candidate has withdrawn being a condition that requires the automatic re-issuance of ballots.

Allegation Four – Misspelling name of candidate on the ballot, in possible violation of General Statutes § 9-250.

19. It is not disputed there was a spelling error on the ballot regarding the name of a candidate.
20. General Statutes § 9-250 requires that a municipal candidate’s name appear on the ballot “as it appears on the certificate or statement of consent.” The Respondent as town clerk was required to provide notice if a candidate’s name was misspelled on the ballots pursuant to § 9-153c if the error is likely to “mislead any voter.”
21. After investigation, there is ample evidence that Respondent sought the advice of and collaborated with SOTS staff during the process of preparing and printing the ballot for the November 2, 2021 Hampton municipal election. Further, it is clear that the ROVs were incorporated through notice of advice and developments between Respondent and the SOTS as well as the ballot printer LHS as problems were identified and resolved regarding the ballot.
22. The Commission must determine whether that despite best efforts Respondent failed to meet the requirements of § 9-250. It would appear that consistent with the guidance of the SOTS under these circumstances § 9-153c did not trigger a notice based on an error that could “mislead a voter.”

Allegation Five – Town Clerk performing the duties of her office, including entering a polling place, despite being a candidate for another office (Board of Ed), in possible violation of § 9-236 (c).

23. It is not disputed there was a spelling error on the ballot regarding the name of a candidate.
24. After investigation, the Commission finds that it can be determined that Respondent violated General Statutes § 9-236 (c), by entering a polling place where and continuing her duties as Town Clerk, even though she appeared on the ballot as a candidate for the Board of Education, another office than town clerk. There is no dispute as to the facts of this allegation.
25. Pursuant to that section town clerks and registrars of voters can perform their duties on election day and appear on the ballot for those same offices. They may not do so if they appear on the ballot for a different office.
26. The Commission must determine under these facts whether Respondent violated General Statutes § 9-236 (c).

Legal Analysis and Conclusions

Allegation One

27. After investigation, Counsel recommends that the Commission dismiss this alleged violation of General Statutes § 9-250 regarding the handling of a vacancy created by an individual withdrawing as a candidate for the P&Z. Evidence indicates that Respondent worked closely with the SOTS to address the issue and satisfy requirements for amended candidate lists and changes in the ballot based on guidance from the SOTS and statutory requirements.
28. The Commission therefore determines that Allegation one is dismissed, as it was not supported by the facts after investigation.

Allegation Two

29. After investigation, Counsel recommends that the Commission determine that the facts do not support a conclusion that Respondent failed to address the changes in the ballot based on endorsements in violation of General Statutes § 9-250. Specifically, the evidence indicates that Respondent worked with both ROVs and Leanne Hollenbeck of LHS printers to respond to the documents of endorsement that she received from the Hampton Republican Town Committee. Specifically, records indicate that Respondent acknowledged to the ROVs the changes made to the ballot based on endorsements and submitted a draft proof based on the endorsements to Ms. Hollenbeck so the ballot would reflect the endorsements.
30. The Commission concludes therefore that Allegation Two is dismissed, as it was not supported by the law after investigation.

Allegation Three

31. After investigation, Counsel recommends that the Commission determine that no violation of § 9-153 (c) (a) occurred under these facts and law. The Respondent remained in contact with SOTS Staff regarding the re-issuance of absentee ballots when a ballot is revised after they have been issued. Respondent kept SOTS staff member Augeri apprised of the situation. Ms. Augeri advised her that she need not re-issue absentee ballots unless they were specifically requested.
32. This advice was contemporaneously shared by Respondent with the ROVS. General Statutes § 9-153c (a) creates an affirmative duty to re-issue absentee ballots including when a printing "omission or error" has occurred. However, that section does not include, as in this instance, when a candidate has withdrawn being a condition that requires the automatic re-issuance of ballots and therefore this allegation is not supported by the law. Counsel therefore recommends that Allegation Three be dismissed.

Allegation Four

33. General Statutes § 9-250 requires that a municipal candidate's name appear on the ballot "as it appears on the certificate or statement of consent." The Respondent as town clerk was required to provide notice if a candidate's name was misspelled on the ballots pursuant to § 9-153c if the error is likely to "mislead any voter." It is not disputed there was a spelling error on the ballot regarding the name of a candidate.
34. After investigation, there is ample evidence that Respondent sought the advice of and collaborated with SOTS staff during the process of preparing and printing the ballot for the November 2, 2021 Hampton municipal election.
35. Further, the Commission finds that the ROVs were incorporated through notice of advice and developments between Respondent and the SOTS as well as the ballot printer LHS as problems were identified and resolved regarding the ballot.
36. Finally, the Commission concludes that consistent with the guidance of the SOTS under these circumstances § 9-153c did not trigger a notice based on an error that could "mislead a voter."
37. The Commission therefore concludes therefore that Allegation Four is dismissed, as it was not supported by the law after investigation.

Allegation Five

38. The ROVs alleged that Respondent continued to do her duties as town clerk on election day when she also appeared on the ballot for a different office in violation of General Statutes § 9-256 (a). There is no dispute as to the facts of this allegation.

39. The Commission finds after investigation that the Respondent assisted in the morning during the election with the absentee ballot process at the polling place as town clerk while also appearing on the ballot as a candidate for the Board of Education.⁵ Pursuant to that section town clerks and registrars of voters can perform their duties on election day and appear on the ballot for those same offices. Respondent violated General Statutes § 9-236 (c).
40. The Commission therefore concludes that Respondent violated General Statutes § 9-256 by continuing her duties as town clerk while appearing on the ballot for another office at the November 2, 2021 Hampton election.
41. 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.
42. 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.
43. 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.

⁵ Respondent in response to this investigation admitted that she has worked in the morning on the absentee ballot process and then turned it over to her assistant who did it for the rest of the day. She admits that she was not familiar about the specifics of this rule and misunderstood its details. She alluded in this part of her response to the "newness" of the office of town clerk and asked that the Commission consider this in its weighing of any facts and violations by Respondent.

ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with General Statutes § 9-236.

The Respondent

For the State of Connecticut

By: Shannon Haddad
Shannon Haddad
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Hampton, Connecticut

By: Michael J. Brandt
Michael J. Brandt, Esq.
Executive Director and General Counsel
And Authorized Representative of the
State Elections Enforcement Commission
55 Farmington Avenue, 8th Floor
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Dated: 10/4/2022

Dated: 10/5/22

Adopted this 5th day of Oct, 2022 at Hartford, Connecticut by vote of the Commission.

Stephen T. Penny
Stephen T. Penny, Chairman
By Order of the Commission