

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Referral by Kerri Rowland and Debra Fellenbaum,
Milford Registrars of Voters, Milford

File No.2023-002

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Elisha Fino (hereinafter "Respondent"), of the Town of Milford, State of Connecticut and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 97b54 of the Regulations of Connecticut State Agencies and Section 4177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. The Milford Registrars of Voters made this referral alleging that Respondent voted twice at the November 8, 2022 election.
2. Specifically, the referring officials alleged that Respondent voted by absentee ballot and then in-person at the same election. Regarding absentee ballots that have been returned to a town clerk, General Statutes § 9-159o requires an elector "*...who finds he is able to vote in person shall proceed before ten o'clock a.m. on election, primary or referendum day to the municipal clerk's office and request that his ballot be withdrawn.*"
3. Respondent cooperated fully with this investigation and has no prior history with the Commission.
4. This disposition is limited to Respondent and the matter is dismissed as to any additional named Respondents.
5. General Statutes § 9-159o, provides:
Any elector who has returned an absentee ballot to the clerk and who finds he is able to vote in person shall proceed before ten o'clock a.m. on election, primary or referendum day to the municipal clerk's office and request that his ballot be withdrawn.
The municipal clerk shall remove the ballot from the sealed package and shall mark the serially-numbered outer envelope, which shall remain unopened, "rejected" and note the reasons for rejection. The elector shall also endorse the envelope. The rejected ballot shall then be returned to the sealed package until delivered on election, primary or referendum day to the registrars of voters in accordance with section 9-140c. The clerk shall then give the elector a signed statement directed to the moderator of the voting district in which the elector resides stating that the elector has withdrawn his absentee ballot and may vote in person. Upon delivery of the statement by the elector to the moderator, the moderator shall cause the absentee indication next to the name of the elector to be stricken from the official checklist and the elector may then have his name checked and vote in person. ...
[Emphasis added.]

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6. The referring officials indicated that:

The Milford Registrars bring to your attention the possibility that ... [Respondent] voted twice in the Nov. 8, 2022 General Election. It appears that [she] voted in person and with an absentee ballot here in Milford, CT. Attached you will find the information from voter registration record, absentee ballot application, the inner and outer envelope from the submitted absentee ballot and the checker book page showing [Respondent] was checked off as having voted in person, as well as each person being marked with an "A".

7. Respondent provided a written response to this complaint and investigation. Respondent admits that she voted in person and completed an absentee ballot that was mailed for the November 8, 2022 election. That ballot was received by the town clerk and counted.
8. According to Respondent, she does not recall who mailed her absentee ballot, but she does not dispute that she completed an absentee ballot. Further, Respondent claims that she had forgotten about it when she went to the polls to take her 90 year old grandmother to vote in Milford at the November 8, 2022 election. Finally, Respondent believes that she was informed she could vote at the polling place when she was next to her grandmother, so she did so. She asserts that this was not intentional and was an error.
9. Upon investigation, it was determined that records and election documents support the finding that Respondent voted both by absentee ballot and in-person at the November 8, 2022 election and that she did not withdraw her absentee ballot. The respective checkers' list has an "A" next to Respondent's name as having voted by absentee ballot, and is also marked through by a line indicating that she voted in person as well.
10. The Commission determines that Respondent did not request her absentee ballot be withdrawn for the November 8, 2022 election pursuant to General Statutes § 9-159o.

Analysis and Conclusion

11. General Statutes § 9-159o requires any elector who has returned an absentee ballot to the clerk and who finds they are able to vote in person to "...proceed before ten o'clock a.m. on election, primary or referendum day to the municipal clerk's office and request that his ballot be withdrawn."
12. After investigation, the Commission determines that Respondent submitted a signed outer envelope from an absentee ballot set that was counted at the election in Milford at the November 8, 2022 election. Further, the Commission determines that election records and documents confirm that Respondent was marked off of the checkers' list after presenting herself to vote in person at the November 8, 2022 election. Respondent does not dispute that she voted both by absentee ballot and in person at the same election.
13. The Commission concludes that Respondent failed to withdraw her absentee ballot at the November 8, 2022 before ten o'clock a.m. after she found she was able to vote in person in violation of General Statutes § 9-159o.
14. Section 9-7b-48 of the Regulations of Connecticut State Agencies provides that, in the determination of applying its civil penalty authority, the Commission shall consider, among other mitigating or aggravating circumstances:
- (1) the gravity of the act or omission;
 - (2) the amount necessary to ensure 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, under these narrow and specific circumstances, believes that a civil penalty of \$100.00 is sufficient to ensure Respondent's immediate and continued compliance with General Statutes § 9-159o.
16. 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.
17. It is understood and agreed that this Agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission by either party in any subsequent hearing, if the same becomes necessary.
18. 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.
19. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent pertaining to this matter.

□

ORDER

IT IS HEREBY ORDERED THAT Respondent shall henceforth strictly comply with General Statutes § 9-159o and shall refrain from voting in an election when not legally qualified to do so.

IT IS HEREBY FURTHER ORDERED THAT Respondent shall pay a civil penalty in the amount of one hundred dollars (\$100.00).

The Respondent:

For the State of Connecticut:

By: Elisha Fino
Elisha Fino
185 Edgefield Ave
Milford, Connecticut

BY: _____
Michael J. Brandi, Esq.
Executive Director and General Counsel
And Authorized Representative of the
State Elections Enforcement Commission
55 Farmington Avenue, 8th Floor
Hartford, Connecticut

Dated: 1/10/2024

Dated: _____

Adopted this _____ day of _____ of 2024 at Hartford, Connecticut

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The Respondent:

For the State of Connecticut:

By: Elisha Fino
 Elisha Fino
 185 Edgefield Ave
 Milford, Connecticut

BY: Michael Brandi
 Michael Brandi, Esq.
 Executive Director and General Counsel
 And Authorized Representative of the
 State Elections Enforcement Commission
 55 Farmington Avenue, 8th Floor
 Hartford, Connecticut

Dated: 1/10/2024

Dated: 3/4/24

Adopted this 17th day of January of 2024 at Hartford, Connecticut

Stephanie T. Pichay
 Chairman
 By order of the Commission