

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

July 31, 2019

Honorable Melanie Levesque
Chair, Senate Committee on Election Law and Internal Affairs
Legislative Office Building, Room 102
107 North Main Street
Concord, NH 03301

Honorable David Cote
Chair, House Committee on Election Law
Legislative Office Building, Room 308
107 North Main Street
Concord, NH 03301

Dear Senator Levesque and Representative Cote:

Enclosed please find the Election Law Complaint Status Report submitted pursuant to RSA 7:6-c for the reporting period November 7 2018 – June 30, 2019. Assistant Attorney General Nicholas Chong Yen, who leads the Election Law Unit, is prepared to respond to any questions you may have. He can be reached at 603-271-3650 or Nicholas.Chongyen@doj.nh.gov.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gordon J. MacDonald".

Gordon J. MacDonald
Attorney General

Enclosure

STATE OF NEW HAMPSHIRE

DEPARTMENT OF JUSTICE

SENATE COMMITTEE ON ELECTION LAW AND MUNICIPAL AFFAIRS

HOUSE COMMITTEE ON ELECTION LAW

Election Law Complaint Status Report

Submitted Pursuant to RSA 7:6-c

Reporting Period November 7, 2018 to June 30, 2019

Prepared by:

Gordon J. MacDonald
Attorney General
Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
Attorney General's Office
33 Capitol Street
Concord, NH 03301
(603) 271-3650

INTRODUCTION

Part I, Article 11 of the New Hampshire Constitution provides, in part, that “[a]ll elections are to be free, and every inhabitant of the State of 18 years of age and upwards shall have an equal right to vote in any election.” To safeguard this constitutional provision, and pursuant to RSA 7:6-c, the Legislature has designated the Attorney General to enforce all election laws in New Hampshire. In 2017, the Attorney General established a free-standing Election Law Unit staffed by one full-time attorney and one full-time elections investigator. The Election Law Unit is currently led by Assistant Attorney General Nicholas Chong Yen and Chief Investigator Richard Tracy.

Pursuant to RSA 7:6-c, II, (a), the Attorney General hereby submits to the New Hampshire House of Representatives and the Senate this report on the status of all complaints of alleged violations of election laws received since our last report dated January 31, 2019. This report is divided into three parts. Section I, pursuant to RSA 7:6-c, II (b), includes a summary of complaints received since November 7, 2018, and a categorization of complaints received by type of complaint and month received as required by RSA 7:6-c, II (b). Section II lists all complaints received prior to this reporting period which remain open. Finally, Section III contains an index of matters that have been closed during the reporting period, and pursuant to RSA 7:6-c, II (c), attached hereto are the closure letters, settlement agreements, cease and desist orders, and other official communications that describe the results of each complaint that has been investigated or an explanation of why the complaint was closed without an investigation.

I.

SUMMARY OF COMPLAINTS RECEIVED SINCE NOVEMBER 7, 2018

Complaint Against	Complainant	Date of complaint	Allegations	Status
Alleged Wrongful Voting	Walls, Sharon & Rep. Kathleen Hoelzel	11/7/2018	RSA 659:34	Open
Alleged Wrongful Voting	SOS	12/21/2018	RSA 659:34	Open
Alleged Wrongful Voting	Shump, Ann	1/18/2019	RSA 659:34	Closed on 1/22/2019
Alleged Wrongful Voting	Bill Joyce	1/25/2019	RSA 659:34	Closed on 4/19/2019
Cartier, Charles	State of NH	1/24/2019	RSA 659:34 Wrongful Voting	Criminal Matter Filed
Anita Burroughs Campaign	Honorable Karen Umberger	1/22/2019	Campaign Finance	Open
Town of Alton	Jeffrey Clay	2/1/2019	Election Official Misconduct RSA 32:5, II	Closed on 5/9/2019
Town of Milton	Bailey, Glenn	2/1/2019	Election Official Misconduct RSA 32:5, II	Open
Paul, Deb	Farrell, John & Freda, Tom	2/18/2019	RSA 664:16 Illegal Campaign Activity	Closed on 3/28/2019
NextGen	McKinnon, Spencer		RSA 659:40, II	Open
Mark Bender, Milford Town Administrator & Granite Apollo	Fournier, Suzanne	3/3/2019	Unlawful Political Advertising RSA 664:14	Open
Town of Greenland	Timothy Collins	3/4/2019	Illegal Campaign Activity RSA 659:44-a	Open
Simonds, Kim	Jim Adams & Cara Marston	3/5/2019	Illegal Campaign Activity RSA 659:44-a	Open
Plainfield Political Advertising	Taylor, Steve	3/5/2019	RSA 664:14	Open
John Doe Milford Political Advertising	Fournier, Suzanne	3/11/2019	RSA 664:14	Open
2019 Danville Town Elections		3/19/2019	Illegal Campaign Activity RSA 659:44-a	Closed on 3/25/2019

Landaff Town Clerk	Lock, Dale Landaff School Board Chairman	3/12/2019	Election Official Misconduct RSA 666:3	Open
Tlapa-Ciardelli, Holleigh	Mannino, Len Milford School District	3/18/2019	Illegal Campaign Activity RSA 659:43	Open
Dixville Notch			RSA 669:7 Incompatibility of Offices	Open
Hudson School District	Deluca, Steve	3/12/2019	RSA 659:44-a Illegal Campaign Activity	Open
Town of Goshen	Downing, Christine	3/13/2019	RSA 39:2	Open
Alleged Wrongful Voting	SOS	4/3/2019	RSA 659:34 & RSA 659:34-a	Closed on 5/20/2019
Hampstead School Board	Rep. Katherine Prudhomme- O'Brien Rep. Mark Pearson, Rep. Dennis Green	4/4/2019	RSA 664:14	Closed on 6/3/2019
Alleged Wrongful Voting	SOS	4/8/2019	RSA 659:34	Closed on 4/26/2019
Bell, Robert	O'Keefe, James Robert Joel Halderman	4/10/2019	RSA 659:34 Wrongful Voting	Criminal Matter Filed
Rindge Library Director and Trustees	Hamilton, Robert	4/4/2019	RSA 659:44-a Illegal Campaign Activity	Closed on 4/18/2019
O'Clair, Ann	Fillmore, Christine	4/27/2019	RSA 659:44-a Illegal Campaign Activity	Open
Town of Londonderry	Bielinski, Richard	4/30/2019	Warrant Article Complaint	Closed on 5/8/2019
Todd Krysiak	State of NH	4/30/2019	RSA 659:34 Wrongful Voting	Criminal Matter Filed
Town of New Castle	Roman, Keriann	5/16/2019	RSA 664:16 Illegal Campaign Activity	Closed on 5/23/2019
Patricia DiMaggio Brenda Williams	Paul Raymond Whipple	5/21/2019	RSA 664:14 Alleged Illegal Campaign Activity	Closed on 5/23/2019
Sonia Gauthier	Pat Chiasson	5/21/2019	Notarial Acts Complaint	Open
Frank Szabo	Karen Ladd	2/6/2019	Notarial Acts Complaint	Open

Alleged Wrongful Voting	Susan Morris	5/31/2019	RSA 659:34	Open
Alleged Wrongful Voting		6/25/19	RSA 664:14	Open

A. Number of Complaints Received Per Month

Month/ year	Number of Complaints
November 2018	1
December 2018	1
January 2019	4
February 2019	4
March 2019	12
April 2019	7
May 2019	4
June 2019	1
TOTAL:	34

B. Complaints Received by Type of Complaint

Type of Complaint	RSA Violations	Number of Complaints
Alleged Wrongful Voting	RSA 659:34 (Wrongful Voting); RSA 659:34-a (Voting In More Than One State); RSA 654:12 (Domicile and Qualified Voter Affidavit Investigations); RSA 659:13, IV (b) (Challenge Voter Affidavits); RSA 657:24 (Misuse of Absentee Ballot); RSA 659:38 (Forgery/Removing of Ballots)	12
Alleged Illegal Campaign Activity	RSA 664:14 (political advertising disclosure requirements); RSA 664:16 (identification of political advertising) RSA 664:16-a (push polling); RSA 664:17 (placement and removal of political advertising); RSA 659:44 (electioneering at polling place RSA 659:44-a (Electioneering by public employee); RSA 659:40 (voter intimidation/suppression/bribery); RSA 655:8 (qualifications of candidate)	13
Alleged Campaign Finance Violation	RSA 664: 1 through 13	1
Alleged Election Official Misconduct	Constitutional Voting Rights Violations; Disability Rights Violations (HAVA/ADA); RSA 641:7 (tampering with public Records); Polling Location Complaints; Warrant Article Complaint RSA 643:3, I (Abuse of Office); RSA 654:27 (Maintaining the Checklist); ; RSA 654:29; (Certification of the Checklist); RSA 660:27 (Meeting of Presidential Electors); RSA 669:1 RSA 669:3 (Town Meetings); RSA 671 (School District Elections).	6
Notarial Acts Complaints	RSA 456-B:2	2
Lobbyist Complaint	RSA 15	0
TOTAL:		34

II.

**INVESTIGATIONS OPEN PRIOR TO THE
REPORTING PERIOD, WHICH REMAIN OPEN**

Alleged Violation	Date Opened
Lobbyist Complaint RSA 666:6	4/30/18
Wrongful Voting RSA 659:34	6/13/18
Lobbyist Complaint RSA 15:6	5/29/18
Wrongful Voting RSA 659:34	7/18/18
Wrongful Voting RSA 659:34	7/18/18
Wrongful Voting RSA 659:34	7/18/18
Campaign Finance Violation RSA 664	8/8/18
Campaign Finance Violation RSA 664	9/5/18
Campaign Finance Violation RSA 664	10/26/18
Campaign Finance Violation RSA 664	11/1/18
Wrongful Voting RSA 659:34 RSA 659:40	11/6/18
Wrongful Voting RSA 659:34	11/19/18
Wrongful Voting RSA 659:45	11/26/18
Wrongful Voting RSA 659:34	12/13/18
Wrongful Voting RSA 659:34	12/13/18
Wrongful Voting RSA 659:34	12/13/18
Wrongful Voting RSA 659:34	12/13/18
Wrongful Voting RSA 659:34	12/19/18

III.

INDEX OF CLOSURE LETTERS/COMMUNICATIONS

Alleged Violation	Date Closed	Bates Page Number
RSA 664:6	January 23, 2019	000001 - 000003
RSA 659:34 Wrongful Voting	January 24, 2019	000004
RSA 659:24 and RSA 658:35 Election Results	January 29, 2019	000005 - 000008
RSA 664:19	February 8, 2019	000009
RSA 659:34 Wrongful Voting	February 11, 2019	000010 - 000012
RSA 659:34 Wrongful Voting	February 11, 2019	000013 - 000015
RSA 659:34 Wrongful Voting	February 28, 2019	000016 - 000022
RSA 654:12 Domicile Affidavit Investigation	February 28, 2019	000023 - 000027
RSA 659:43	March 21, 2019	000028 - 000030
RSA 669:23 Ballots	March 25, 2019	000031
RSA 664:14 Campaign Signs	March 25, 2019	000032 - 000033
RSA 664:14 Campaign Signs	March 25, 2019	000034 - 000035
RSA 664:14 Campaign Signs	March 25, 2019	000036 - 000037
RSA 664:14 and RSA 664:16 Political Advertisement	March 28, 2019	000038 - 000039
RSA 456-B:2 Notary Complaint	April 16, 2019	000040
RSA 659:44-a Electioneering	April 18, 2019	000041 - 000042
RSA 659:34 Absentee Ballot	April 19, 2019	000043 - 000044
RSA 657:6	April 24, 2019	000045 - 000046
RSA 664:2 Political Committee	April 24, 2019	000047 - 000048
RSA 654:1 Wrongful Voting	April 26, 2019	000049 - 000050
RSA 654:1 Wrongful Voting	May 1, 2019	000051 - 000052
RSA 641:7 Tampering with Public Records	May 6, 2019	000053
Campaign Finance Violation	May 8, 2019	000054
RSA 39:2 Warrant Article	May 8, 2019	000055 - 000056
RSA 32:5 Warrant Article	May 9, 2019	000057 - 000058
RSA 664:2 Campaign Finance	May 15, 2019	000059 - 000061
RSA 657:24 Absentee Ballot	May 20, 2019	000062 - 000064
RSA 659:34 Wrongful Voting	May 21, 2019	000065
RSA 666:6	May 22, 2019	000066 - 000067
RSA 664:2	May 22, 2019	000068 - 000069
RSA 657:17 Absentee Ballot	May 23, 2019	000070 - 000071
RSA 664:14	May 23, 2019	000072 - 000073
RSA 659:34 Wrongful Voting	May 23, 2019	000074
RSA 31:95-b	May 30, 2019	000075 - 000076
RSA 664:2	June 3, 2019	000077 - 000079

RSA 659:20	June 13, 2019	000080 - 000083
RSA 659:34	June 20, 2019	000084
Suspicious Emails to Legislators	June 25, 2019	000085 - 000086
RSA 664:2	June 25, 2019	000087 - 000088
RSA 659:34 Wrongful Voting	June 26, 2019	000089 - 000090
RSA 654:1 Wrongful Voting	June 27, 2019	000091 - 000092

**Closure Letters, Settlement Agreements,
Cease and Desist Orders, Complaints Filed With A Court,
Or Other Official Communications**

**DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
CONTINUATION OF INVESTIGATION/ARREST REPORT**

Matter #	Case Name	Investigator	Report Date
2018133879	Gray CHYNOWETH Campaign Finance Complaint	Richard C. Tracy	January 22, 2019

Friday, January 18, 2019, Assistant Attorney General Matthew Broadhead informed me that former Executive Councilor Candidate, Gray CHYNOWETH has not responded to two different letters that AAG Broadhead sent to CHYNOWETH on October 4 and December 3, 2018. AAG Broadhead sent the two letters seeking a response to a complaint received from the New Hampshire Republican State Committee. The complaint filed by the NHRSC reads:

Gray CHYNOWETH, on his 9/19/2018 finance report, intentionally withheld expenditures from his total expenditures. This is found in section H. CHYNOWETH reported \$2,388.59 in total expenditures for the period but paid Mission Control Inc. an out of state mail vendor serving other clients such as Sen. Hassan and Rep. Kuster, a total of \$24,593.46 on 9/5/2018.

On January 22, 2019, I made phone contact with Gray CHYNOWETH.

Graham "Gray" CHYNOWETH,
848 Elm Street Ste 200, (Campaign HQ)
Manchester, NH 03101



CHYNOWETH acknowledged receiving the letters from AAG Broadhead, then explained that work and other campaign related matters have delayed his response to AAG Broadhead's letters to which he apologized for.

CHYNOWETH explained that the reason they did not list the \$24,593.46 expense in section "H" of the 9/19/18 report is because that expense was listed in section "H" of the 9/5/18 receipt and expenditure report. The \$24,593.46 expenditure is listed in the itemized section of both the 9/5/18 and 9/19/18 reports.

CHYNOWETH further explained that when they listed it in the 9/5/18 report they had already budgeted for the expense and knew that the expense would soon be coming, which is why they listed it in the 9/5/18 report. Because they didn't actually expend the money until 9/5/18 they listed it again in the 9/19/18 report which requires all expenditures between 9/4/18 and 9/11/18 be listed in the 9/19/18 report. CHYNOWETH felt that if they had listed that expense in section "H" of the 9/19/18 report it would appear that they spent that money twice, which wasn't the case. CHYNOWETH realizes now that they should not have listed that \$24,593.46 expense in the 9/5/18 report.

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1	2			1-22-19

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DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
CONTINUATION OF INVESTIGATION/ARREST REPORT

Matter #	Case Name	Investigator	Report Date
2018133879	Gray CHYNOWETH Campaign Finance Complaint	Richard C. Tracy	January 22, 2019

We discussed amending both reports, taking the expense out of the 9/5/18 report all together and putting it only in the 9/19/18 report. CHYNOWETH stated that he is in Miami, Florida this week on a business trip and asked if it would be okay to do that next week, which I told him was okay. I asked CHYNOWETH to respond to AAG Broadhead's letter once they have amended both reports and sent them to the Secretary of State's Office. CHYNOWETH agreed to do that.

I thanked CHYNOWETH for his anticipated cooperation. CHYNOWETH apologized again for the delay and stated that he would take care of this next week.

Page	of	pages	SIGNED	DATE	
2	2			1-11-19	000002


Events Note to File

Gray Chynoweth Campaign
Finance Complaint

2018133879 1/23/2019 Note to File
4:47 PM

Our office has reviewed the complaint dated October 2, 2019 alleging a campaign finance violation by Mr. Chynoweth's campaign. Our office investigated, see the enclosed report. The \$24,593.46 payment to Mission Control, Inc. was reported initially as an 8/28/18 payment, as it was his campaign made a plan to expend the money as of that date (See RSA 664:2, IX, Definition of "Expenditure" as including a "legally binding commitment to make such a disbursement.") Therefore, the campaign listed the payment in the 9/5/18 report under both the "Section H" cover sheet and in its itemized expenses. The payment was not actually made until 9/5/18 and therefore was again listed as an itemized expense in the 9/19/18 report. Since the item was already listed in its previous report under "Section H," the campaign did not include it as an expense because it did not want the report to reflect that the money was expended twice.

It was unclear whether the campaign had made a "legally binding commitment" as of 8/28/18. If it had, it was proper to report the expense on the 9/5/18 report. If not, then it should have listed the expense on the 9/19/18 report because the funds were actually expended on 9/5/18. Since the campaign listed the itemized expense on both reports, Mr. Chynoweth's campaign did not violate any campaign finance law. I emailed the complainant to inform him of this outcome and that our office will not take any further action on this matter. -MTB



**DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
CONTINUATION OF INVESTIGATION/ARREST REPORT**

Matter #	Case Name	Investigator	Report Date
2019135512	[REDACTED] Alleged Wrongful Voting Complaint	Richard C. Tracy	January 22, 2019

On January 14, 2019, I spoke with Ann SHUMP a Durham Supervisor of the Checklist, regarding a [REDACTED] possibly voting twice in the November 6, 2018 General Election.

Ann SHUMP, Supervisor of the Checklist

[REDACTED]

SHUMP stated that she was in the process of adding information from the November 6, 2018 General Election when she encountered an issue involving the name [REDACTED] DOB [REDACTED] of [REDACTED]. SHUMP stated that she couldn't enter the information because Electionet was showing that [REDACTED] voted in Portsmouth NH during the same election. On January 17, 2019, SHUMP forwarded the voter registrations and checklist from both Portsmouth and Durham to my attention.

The Durham checklist indicates that [REDACTED] changed his address on Election Day from [REDACTED] NH to [REDACTED] NH. I'm aware that the [REDACTED] address is located in the heart of the UNH campus and likely rented to students attending UNH. In further review of the checklist I noted that there were 2 people with the last name of [REDACTED] [REDACTED]

Research conducted through TLO, Facebook and other means I discovered that [REDACTED] and [REDACTED] on the checklist is spelled incorrectly and should be spelled the same as [REDACTED]. I learned that [REDACTED] is the younger brother of [REDACTED] [REDACTED] graduated from UNH last year and [REDACTED] is scheduled to graduate this year.

On January 18, 2018, I spoke with [REDACTED] who confirmed the information that I found. [REDACTED] stated that he is presently living at [REDACTED] and that he voted on November 6, 2018 in Durham.

I informed Ann SHUMP that this is a case of ballot clerk error and not a case of double voting. SHUMP stated that she will correct the information in Electionet. Refer to attached documents and emails for more information.

*Per Report, no further action.
AMTB*

Page 1 of 1 pages	SIGNED 	DATE 1-24-19
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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

January 29, 2019

Andrea Kohler, Town Clerk
Paul Scafidi, Moderator
Town of Exeter
10 Front Street
Exeter, NH 03833

Re: **Cease and Desist Order**
Exeter Town Election on March 13, 2018

Dear Ms. Kohler & Mr. Scafidi:

On March 14, 2018, our office received two complaints in connection with the Exeter Town Election that occurred on March 13, 2018. The complaints allege that the results announced on election night contained discrepancies between the number of ballots cast and the number of voters marked on the checklist. Additionally, we received notice that the Town failed to follow proper protocols with respect to issuing absentee ballots prior to the election. Our office's Chief Investigator Richard Tracy conducted an investigation.

Election Night Results

On election night, the Town reported that a total of 2,795 ballots were cast. However, the marked checklist indicated that only 2,685 voters checked in to the checklist. At first glance, it would appear to voters that there were 110 more ballots cast than voters who received ballots. On or about March 26, 2018, the Town Clerk published a notice stating that the originally reported number of ballots cast was incorrect and revised the number to 2,695 ballots cast.

Our investigation did not reveal any evidence of criminal misconduct, such as "ballot box stuffing." However, we have concluded that this discrepancy was the result of errors made by the Town of Exeter following the election. The mistakes, however, were avoidable and should have been discovered on election night, prior to announcing the results.

Ms. Kohler stated during her interview with Chief Investigator Tracy, that the announcement that 2,795 ballots had been cast was based upon a calculation that was conducted by an assistant clerk. This number was calculated by using the ballot machine tape and then adding the number of ballots that were counted by hand. It appears that an error was made when

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performing this initial calculation. On election night, this figure was not crosschecked with either the marked checklist or by conducting an inventory of cast and uncast ballots.

During the March 13, 2018, Town Election, the town ballot consisted of two double-sided pages providing for the election of officers and voting on warrant articles. The results tabulated by the ballot counting device indicated that 5,099 individual ballot pages were counted by the machine. Four (4) of these ballot pages were school ballots that were placed into the wrong machine. Nine (9) ballot pages were rejected by the machine and were hand counted.

On the day before the election, the Town ran out of absentee ballots requiring the Clerk to issue copies of blank absentee ballots, pursuant to RSA 659:24. The ballot counting devices typically cannot read copies of absentee ballots, and therefore these ballots are tabulated by hand. The Town indicated that there were one-hundred and twenty-nine (129) individual voters (258 ballot pages) who cast absentee ballots that were hand counted.

To determine the number of individual voters who cast a ballot, the total number of ballot pages must be divided by two (2), which is the number of individual ballot pages that each voter cast in the town election. The election-night calculation that the Town should have performed follows:

5,099	(ballot pages tabulated by the counting device)
- 4	(school ballot pages placed in the counting device)
+ 9	(ballot pages rejected by the counting device and hand counted)
+ 258	(hand counted ballot pages from 129 absentee voters)

5,362	total ballot pages divided by 2, equals <u>2,681 individual voters.</u>

Therefore, according to the ballot counting device tape, 2,681 individual voters cast ballots during the March 13, 2018, town election. The originally reported number of 2,795 and the subsequently posted number of 2,695 voters were both incorrect because the above calculation was performed incorrectly. Note that the 2,681 votes counted are four (4) *less* than the total number of voters marked off the checklist, which was 2,685.

Although calculation errors do sometimes occur, especially after a long election day, a discrepancy of this magnitude should have been detected on election night, prior to the announcement of the results. The Town should have reconciled the reported number of ballots cast with the number of voters marked off the checklist.

It is the responsibility of the moderator to oversee the counting of votes. RSA 659:60. The selectmen and town clerk are required to assist the moderator in performing this task. RSA 669:58. "After the counting, the moderator shall make a public declaration of the number of ballots cast, with the name of every person voted for and the number of votes for each; and the town clerk shall make a fair record thereof in the books of the town." RSA 669:58; *See also* RSA 659:70. Inherent in this responsibility is the duty to ensure the accuracy of the tallies prior to the public announcement.

Both the State's Election Procedure Manual and RSA 659:73 set forth useful procedures that election officials should follow in order to reconcile the number of ballots cast during an election with the number of voters marked off the checklist. Although election officials are not required to report their results pursuant to RSA 659:73 for town elections, the Moderator's Worksheet located on page 255 of the 2018-2019 Election Procedure Manual is a useful tool to assist moderators in helping to identify and resolve discrepancies on election night.

As the worksheet explains, in addition to reviewing the tape on the ballot counting device, you may also reconcile the number of voters marked on the checklist with an inventory of the Town's uncast and spoiled ballots. Subtracting these figures from the total number of ballots prepared by the Town should equal the total number of ballots cast and the number of voters marked off the checklist.

For future elections, it is imperative that the Town first reconciles the number of ballots cast with the number of voters on the marked checklist prior to announcing the results.

Absentee Ballots

In the course of our investigation, our office became aware that the town clerk issued copies of the absentee ballots after having run out of official ballots. Ms. Kohler stated that on March 12, 2018, the day before the town election, she ran out of official absentee ballots due to an unexpectedly high volume of requests. She admitted that she failed to endorse each absentee ballot copied before issuing them to approximately one-hundred and twenty-nine (129) voters.

The town clerk is responsible for preparing and issuing absentee ballot materials "in such quantities as [she] may deem necessary." RSA 669:27. New Hampshire law provides that "[i]f the supply of ballots shall become exhausted before the closing of the polls, it shall be the duty of the town or city clerk to cause unofficial ballots to be prepared as provided in RSA 658:35." RSA 659:24. The town clerk shall "cause unofficial ballots to be prepared, as far as possible, in form of the official ballots" (RSA 658:35) and the ballots must contain her "official endorsement" (RSA 659:24). In such circumstances, town election officials are directed to adhere to the following procedure:

Photocopies should be made of an unused official ballot. Each photocopy ballot should be authenticated by the clerk or designee by signing his or her name or initials prior to being issued to the voter, to distinguish any such unofficial ballots from fraudulently created ballots. RSA 659:24. Keep an accurate record of the number of unofficial ballots created and the number put into use as election day ballots.


N.H. Election Procedure Manual, § X, p. 104 (2016-2017). This requirement permits election officials to distinguish between authentically issued ballots from fraudulently copied ballots.

Town of Exeter
Page 4 of 4

Based on the foregoing, we have concluded that Ms. Kohler's actions failed to adhere to the State's guidance as outlined in the NH Election Procedure Manual and that she failed to adhere to RSA 659:24 and RSA 658:35.

In light of our conclusion that the Town failed to correctly report the number of ballots cast pursuant to RSA 669:58 and failed to adhere to RSA 659:24 & RSA 658:35 by failing to endorse copied absentee ballots, it is hereby ordered to cease and desist any and all activities which violate these provisions in the future. Please be advised that continued failure to comply with our State's election laws may result in this office appointing an election monitor pursuant to RSA 659:77 or taking further enforcement action.

Sincerely,



Matthew T. Broadhead
Assistant Attorney General
Election Law Unit
(603) 271-3650
matthew.broadhead@doj.nh.gov

cc: William M. Gardner, Secretary of State
Kate Petrillo
Brian T. Grisct

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

February 8, 2019

David Bates



Re: Common Sense for NH PAC
Alleged Campaign Finance Violation

Dear Representative Bates:

This Office has reviewed your complaint dated November 30, 2018 as well as a response from Common Sense for NH, which included financial records from the organization. You are correct that the Final Report for this committee cannot be located. Common Sense for NH states that although it retained its records for a "reasonable" amount of time, it no longer has a copy of this report. Both Mr. Twomey and Ms. Butler assert that a Final Report was indeed filed with the Department of State. Nevertheless, as noted in our acknowledgment letter to you regarding this complaint, the statute of limitations for pursuing an enforcement action for failing to file a Final Report in this matter has long since passed. *See* RSA 508:4-h.

In response to your complaint, Ms. Butler produced records establishing that the bank account for Common Sense for NH obtained a zero balance and was closed over 6 years ago, on January 7, 2013. Therefore, Common Sense for NH was not under an obligation to file so-called "6-month reports" since the organization did not retain any surplus funds. *See* RSA 664:6, V. In light of the foregoing, this Office will not be taking any further action on this matter and it will now be closed.

Sincerely,

A handwritten signature in dark ink, appearing to read "MTB".

Matthew T. Broadhead
Assistant Attorney General
Election Law Unit
(603) 271-3650
matthew.broadhead@doj.nh.gov

cc: Paul Twomey, Esq.
Deborah Butler, Common Sense for New Hampshire PAC

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

February 11, 2019

SENT VIA CERTIFIED MAIL

Angie Ward

Re: Violation of RSA 659:34 Wrongful Voting - Civil Penalty Assessment
Amount Due Within 30 days: \$500.00

Dear Ms. Ward:

On November 22, 2016, this Office received a complaint from the Hill Town Clerk, Shelly Henry. The complaint alleged that you "partially filled out a voter registration form and [were] permitted to vote by the Supervisors of the Checklist" despite what appeared to be an anomaly on your voter registration form. The complaint stated that you "either [are] not a U.S. Citizen or there is missing information on [your] voter registration form." This Office conducted an investigation.

On November 1, 2018, you spoke with Chief Investigator Richard Tracy. You admitted that you registered and voted in Hill on the day of the November 8, 2016 General Election. You also admitted that you are not a United States citizen. You explained that you are a German citizen living in the country legally.

On the day of the election, you approached the Hill voter registration table with your driver's license, social security card, and immigration paperwork and asked if you could register to vote. You allege that you stated to one of the supervisors of the checklist that you were a "German citizen living in the United States legally" and that you had paperwork with you to prove this. You claim that the election official said that you could register and vote. This conversation, however, cannot be corroborated with any other witness.

Chief Investigator Tracy interviewed the Town Clerk, Shelly Henry, and two supervisors of the checklist who recalled this incident, Anne Ford and Marie Stanley. None of these town officials could confirm that you had made the above statement to them, rather they recount that you simply showed a New Hampshire's driver's license and completed the registration form. Anne Ford, who signed and approved your registration form, stated that there "was never any

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conversation...about citizenship” between you and her. Ms. Stanley agreed that no such conversation took place.

When completing the registration form on November 8, 2016, you checked off “No” on the registration form where it asks “are you a citizen of the United States?” Although you answered this question honestly, the registration form provides clear notice that you were not eligible to vote. You signed an affidavit and acknowledgment on the form which stated:

I understand that to vote in this ward/town, I must be 18 years of age, I must be a United States citizen, and I must be domiciled in this ward/town.

[...]

I acknowledge that I have read and understand the above qualifications and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

(emphasis added). Additionally, the affidavit that you signed outlined the penalty for wrongful voting.

All three town officials stated that they did not notice anything wrong with your registration until after you were provided a ballot, voted, and had left the polling place. Ms. Ford handed your registration form to Ms. Stanley, who was responsible for entering information into the statewide voter database, known as Electionet. Ms. Stanley began entering your information into the system when she noticed that you indicated on form that you were not in fact a United States citizen. At first, Ms. Stanley thought this was a mistake. She explained that she saw your driver’s license and “assumed [it] would have somehow been different if [you] were not a United States citizen.” During the conversation with Investigator Tracy, Ms. Ford accepted responsibility for failing to closely review your registration, especially the citizenship section, before approving it.

Pursuant to RSA 659:34, I (e), it is unlawful for a person to vote for any office or measure at an election if such person is not a United States citizen. RSA 654:1. A violation of this law constitutes a class B felony if the person acts knowingly or purposely. RSA 654:34, II. A criminal conviction under this circumstance could carry a potential penalty of forfeiting one’s right to vote under the New Hampshire Constitution, Part I, Article 11.

In lieu of pursuing criminal prosecution, RSA 659:34 also authorizes this Office to issue civil penalties for individuals who engage in wrongful voting. It is clear that the election officials in the Town of Hill should not have accepted your registration in light of your representation on the registration form. Due in part to these errors by town officials, we have determined that the evidence in your circumstance did not rise to the level of criminal misconduct, and therefore we are issuing a civil penalty in lieu of prosecution.

Ms. Angie Ward
Page 3 of 3

However, based on all of the evidence, this Office is not convinced that you were as forthright about your citizenship status as you allege. There are no witnesses that could corroborate your conversation with election officials about your citizenship status. Additionally, you were provided adequate notice on the registration form that you must be a United States citizen in order to vote in our State's elections. Your admission that you voted and that you were not a United States citizen, despite signing an affidavit on your registration form indicating that you were, is sufficient to warrant a civil penalty in this instance.

Prior to the 2018 General Election, Investigator Tracy informed you that you were not eligible to vote and you stated that you would not attempt to do so going forward. We have also notified the Town of Hill that you are not a United States citizen and advised that you should be removed from the voter checklist unless and until you obtain citizenship.

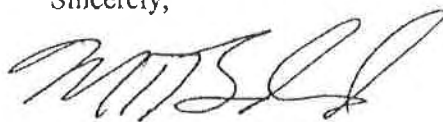
In light of the above detailed facts, we find that you violated RSA 659:34, I (e) because you voted at an election despite not being qualified to do so under RSA 654. Your actions are serious violations of New Hampshire's election laws. This letter serves as official written notice that this Office is hereby imposing a civil penalty of \$500.00 pursuant to RSA 659:34, III, because you violated RSA 659:34, I (e) on November 8, 2016.

Your payment of this penalty in the amount of \$500.00 must be delivered to our office within thirty (30) days of this letter. In the event that you either fail to make timely payment of this penalty our office will initiate further enforcement action.

Your payment of \$500.00 shall be made by check made payable to "Treasurer, State of New Hampshire" and mailed to the Office of the Attorney General, 33 Capitol Street, Concord, NH 03301, Attention: Assistant Attorney General Matthew T. Broadhead.

Pursuant to RSA 659:34, IV, you may appeal this decision to superior court. You must file an appeal within 30 days of the date you receive this letter. Thank you for your attention to this matter.

Sincerely,



Matthew T. Broadhead
Assistant Attorney General
Election Law Unit
(603) 271-3650
matthew.broadhead@doj.nh.gov

cc: Sherry Henry, Town of Hill
The Honorable William M. Gardner, Secretary of State

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

February 11, 2019

SENT VIA CERTIFIED MAIL

Christie West
[REDACTED]

Re: Violation of RSA 659:34 Wrongful Voting - Civil Penalty Assessment
Amount Due Within 30 days: \$500.00

Dear Ms. West:

On May 16, 2016, you called into the Help America Vote Act ("HAVA") Help Desk at the N.H. Department of State and reported to an employee at the office, Sheila Dodge, that you lived in Mont Vernon and worked in Portsmouth. You explained that you registered and voted in Portsmouth during the February 9, 2016, presidential primary election because you did not receive your Mont Vernon absentee ballot in time. From 2006 up to the 2016 election, you lived and voted exclusively in Mont Vernon. The Department of State referred this matter to our office for investigation.

On October 16, 2018, you spoke with Chief Investigator Richard Tracy from this Office and explained that you have lived at a residence at [REDACTED] at least since 2006 and that you continue to live there to this day. For approximately four (4) years, you worked in Portsmouth and temporarily rented an apartment at [REDACTED] during this timeframe. You indicated that while you were working in Portsmouth, you stayed in the apartment approximately 2 to 3 days per week. You explained that you did this to avoid the long commute to and from Mont Vernon, especially in the event of inclement weather.

You explained to Investigator Tracy that because of your workload on the day of the February 9, 2016 presidential primary election, you were not going to make it back to Mont Vernon in time to vote. You instead decided to register and vote in Portsmouth. When asked a second time, you stated that it is possible that the weather was bad that day, so you decided not to travel home to Mont Vernon. Further, you stated that you "love that we have same day registration." When asked a third time if the reason you voted in Portsmouth was due to the weather or because you could not make it back to Mont Vernon before the polls closed, you stated that you were not sure.

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Ms. Christie West
Page 2 of 3

You then re-registered and voted in Mont Vernon during the March 13, 2017 town election. Later that same year, you again registered and voted in Portsmouth on the day of the November 7, 2017, city elections. You felt that you could do this since you had two places to stay and did not vote twice during the same election.

When completing the registration forms in Portsmouth on February 9, 2016 and again on November 7, 2017, you signed an affidavit and acknowledgment form that stated, in pertinent part:

I understand that to vote in this ward/town, I must be 18 years of age, I must be a United States citizen, and I must be domiciled in this ward/town.

I understand that a person can only claim one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon a temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.

I acknowledge that I have read and understand the above qualifications and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

Additionally, the affidavits that you signed outlined the penalty for wrongful voting. Your registration forms indicated that you were domiciled at [REDACTED] in Portsmouth. However, you admitted to Investigator Tracy that you actually lived in Mont Vernon at the time and that you were merely temporarily renting an apartment in Portsmouth for your convenience. During 2016 and 2017 you maintained Mont Vernon as your residence and mailing address with the Department of Motor Vehicles and for the purposes of registering your motor vehicle. Per your own statements, throughout this time you lived a majority of your time in Mont Vernon and always intended to return there after your temporary stint in Portsmouth.

In New Hampshire, in order to vote in a town or city ward, you must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1, I. A "voter can only have one domicile for voting purposes." RSA 654:2.

Pursuant to RSA 659:34, I (e), it is unlawful for a person to vote for any office or measure at an election if such person is not domiciled there as provided in RSA 654. A violation of this law constitutes a class B felony if the person acts knowingly or purposely. RSA 654:34, II. A criminal conviction under this circumstance could carry a potential penalty of forfeiting one's right to vote under the New Hampshire Constitution, Part I, Article 11.

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Ms. Christie West
Page 3 of 3

In lieu of pursuing criminal prosecution, RSA 659:34 also authorizes this Office to issue civil penalties for individuals who engage in wrongful voting. We have determined that the evidence in your circumstance did not rise to the level of criminal misconduct, and therefore we are issuing a civil penalty in lieu of prosecution.

Outside of your temporary stay in Portsmouth, there is no evidence that you have taken any step or manifested any intent to designate Portsmouth, more than any other place, your location for participating in domestic, social, and civil activities relevant to democratic self-government. As a result, we have concluded that you were domiciled in Mont Vernon, not Portsmouth, during the 2016 Presidential Primary Election and during the 2017 city election.

Therefore, we find that you violated RSA 659:34, I (e) on two separate occasions because you voted in a location where you were not domiciled, and therefore were not qualified to vote under RSA 654.

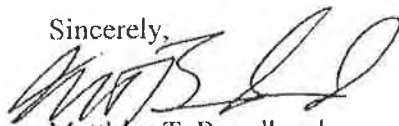
Your actions are serious violations of New Hampshire's election laws. This letter serves as official written notice that this Office is hereby imposing a civil penalty of \$500.00 per violation, for a total penalty of \$1,000.00 against you pursuant to RSA 659:34, III, because you violated RSA 659:34, I (e) on February 9, 2016 and November 7, 2017

However, because you self-reported your conduct and cooperated with the investigation, we are hereby suspending \$500.00 of the civil penalty for a period of two (2) years. **Your payment of the non-suspended portion of the penalty in the amount of \$500.00 must be delivered to our office within thirty (30) days of this letter. In the event that you either fail to make timely payment of this \$500.00 penalty in full, or if you once again violate RSA 659:34 within two (2) years, then the suspended penalty of \$500.00 shall become immediately due and payable.**

Your payment of \$500.00 shall be made by check made payable to "Treasurer, State of New Hampshire" and mailed to the Office of the Attorney General, 33 Capitol Street, Concord, NH 03301, Attention: Assistant Attorney General Matthew T. Broadhead.

Pursuant to RSA 659:34, IV, you may appeal this decision to superior court. You must file an appeal within 30 days of the date you receive this letter. Thank you for your attention to this matter.

Sincerely,



Matthew T. Broadhead
Assistant Attorney General
Election Law Unit
(603) 271-3650
matthew.broadhead@doj.nh.gov

cc: Ms. Christie West, P.O. Box 1253, Amherst, NH 03031
William M. Gardner, Secretary of State

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THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Strafford Superior Court
259 County Farm Road, Suite 301
Dover NH 03820

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

RETURN FROM SUPERIOR COURT – HOUSE OF CORRECTIONS

Case Name: State v. Spencer W McKinnon
Case Number: 219-2018-CR-00691

Name: Spencer W McKinnon, [REDACTED]

DOB: [REDACTED]

Charging document: Complaint

Offense: Voter Fraud	GOC:	Charge ID: 1596919C	RSA: 659:34	Date of Offense: October 26, 2016
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Disposition: Guilty/Chargeable By: Plea

A finding of **GUILTY/CHARGEABLE** is entered.

Conviction: Misdemeanor

Sentence: see attached

February 28, 2019
Date

Hon. Tina L. Nadeau
Presiding Justice

Kimberly T. Myers
Clerk of Court

MITTIMUS

In accordance with this sentence, the Sheriff is ordered to deliver the defendant to the **Strafford County House of Corrections**. Said institution is required to receive the Defendant and detain him/her until the Term of Confinement has expired or s/he is otherwise discharged by due course of law.

Attest: _____
Clerk of Court

SHERIFF'S RETURN

I DELIVERED THE DEFENDANT TO THE **Strafford County House of Corrections** and gave a copy of this order to the Superintendent.

Date

Sheriff

J-ONE: State Police DMV

C: Dept. of Corrections Offender Records Sheriff Office of Cost Containment
 Prosecutor John J. Kennedy, ESQ and Matthew Broadhead, ESQ Defendant Defense Attorney P. Scott Bratton, ESQ Sex Offender Registry Other Strafford HOC _____ Dist
Div. _____

The State of New Hampshire SUPERIOR COURT COMPLAINT

Case Number: 219-2018-CR-00691

Charge ID:

<input type="checkbox"/> VIOLATION	MISDEMEANOR	<input checked="" type="checkbox"/> CLASS A	<input type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED (non-person)
	FELONY	<input type="checkbox"/> CLASS A	<input type="checkbox"/> CLASS B	<input type="checkbox"/> SPECIAL <input type="checkbox"/> UNCLASSIFIED (non-person)

You are to appear at the: **Strafford Superior Court**
 address: **259 County Farm Road Dover NH 03820**
 in: **Strafford County**
 at: **11:45**
 on: **February 28, 2019**

Under penalty of law to answer to a complaint charging you with the following offense:

THE UNDERSIGNED COMPLAINS THAT:

McKinnon Spencer W
 Last Name First Name Middle

Address City State Zip

Male White 6' brown brown
 Sex Race Height Weight Eye Color Hair Color

DOB License #: Massachusetts
 OP License State

COMM. VEH. COMM. DR. LIC. HAZ. MAT. 16+ PASSENGER

AT: **Durham, NH**

On or about Between **October 26, 2016** In the above county and state, did
 commit the offense of:

RSA Name: **Wrongful Voting - False Statement on Voter Registration Form**
 Contrary to RSA: **659:34, I (a) & II**

Inchoate:
 And the laws of New Hampshire for which the defendant should be held to answer, in that the defendant did:
register to vote on October 26, 2016 in the Town of Durham, after already casting an absentee ballot in the town of Dracut, MA on October 24, 2016. In doing so, he knowingly, signed and submitted an election day registration affidavit when registering to vote, and the affidavit contained false material information regarding his qualifications to vote. To wit, he signed an affidavit statement under the penalties of voting fraud that provided "By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or city/town."

*guilty plea
 Broadhead
 2/28/19*

Additional allegations are attached.
 against the peace and dignity of the State

Date: 02/28/2018


Prosecutor's Signature NH Bar ID # Printed Name NH Attorney General Prosecuting Attorney's Office

Assistant Attorney General

NIJB-2486-S (12/01/2016)

012#159000017C

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**

http://www.courts.state.nh.us

Court Name: Strafford County Superior Court
 Case Name: State v. Spencer McKlaron
 Case Number: 219-2018-CR-691 Charge ID Number: 1596919C
 (if known)

HOUSE OF CORRECTIONS SENTENCE

Plea/Verdict: <u>Guilty</u>	Clerk: <u>A. COTE</u>
Crime: <u>Wrongful Voting - False Statement RSA 657:31b</u>	Date of Crime: <u>October 26, 2016</u>
Monitor: <u>COG</u>	Judge: <u>T. Nadeau</u>

A finding of GUILTY/TRUE is entered.

- This conviction is for a Felony Misdemeanor Violation of Probation
- The defendant has been convicted of Domestic Violence contrary to RSA 631:2-b or of an offense recorded as Domestic Violence. See attached Domestic Violence Sentencing Addendum.
- The defendant has been convicted of a misdemeanor, other than RSA 631:2-b or an offense recorded as Domestic Violence, which includes as an element of the offense, the use or attempted use of physical force or threatened use of a deadly weapon, and the defendant's relationship to the victim is:
- (1) Current or former spouse (2) Parent (3) Guardian (4) Child in common OR Cohabiting or cohabited with victim as a (5) spouse (6) parent (7) guardian OR A person similarly situated to (8) spouse (9) parent (10) guardian

1. The defendant is sentenced to the House of Corrections for a period of 6 months
2. This sentence is to be served as follows:
- Stand committed Commencing _____
- Consecutive weekends from _____ PM Friday to _____ PM Sunday beginning _____
- 6 months of the sentence is suspended during good behavior and compliance with all terms and conditions of this order. Any suspended sentence may be imposed after hearing at the request of the State. The suspended sentence begins today and ends 1 years from today or release on _____
- (Charge ID Number)

_____ of the sentence is deferred for a period of _____

The Court retains jurisdiction up to and after the deferred period to impose or terminate the sentence or to suspend or further defer the sentence for an additional period of _____

Thirty (30) days prior to the expiration of the deferred period, the defendant may petition the Court to show cause why the deferred commitment should not be imposed. Failure to petition within the prescribed time will result in the immediate issuance of a warrant for the defendant's arrest.

Other: _____

3. The sentence is consecutive to _____ (Charge ID Number) concurrent with _____ (Charge ID Number)

4. Pretrial confinement credit: _____ days.

5. The court recommends to the county correctional authority:
- Work release consistent with administrative regulations.
- Drug and alcohol treatment and counseling.
- Sexual offender program.
- _____

If required by statute or Department of Corrections policies and procedures, the defendant shall provide a sample for DNA analysis.

Case Name: State v Spencer McKinnon
Case Number: 219-2018-CR-69
HOUSE OF CORRECTIONS SENTENCE

PROBATION

- 6. The defendant is placed on probation for a period of _____ year(s), upon the usual terms of probation and any special terms of probation determined by the probation/parole officer.
Effective: Forthwith Upon Release _____
The defendant is ordered to report immediately to the nearest Probation/Parole Field Office.
- 7. Subject to the provisions of RSA 504-A:4, III, the probation/parole officer is granted the authority to impose a jail sentence of 1 to 7 days in response to a violation of a condition of probation, not to exceed a total of 30 days during the probationary period.
- 8. Violation of probation or any of the terms of this sentence may result in revocation of probation and imposition of any sentence within the legal limits for the underlying offense.

OTHER CONDITIONS

- 9. Other conditions of this sentence are:
 - A. The defendant is fined \$ 2,000, plus statutory penalty assessment of \$ 480.00 ~~240~~
 The fine, penalty assessment and any fees shall be paid: Now By _____ OR
 Through the Department of Corrections as directed by the Probation/Parole Officer. A 10 % service charge is assessed for the collection of fines and fees, other than supervision fees
 \$ 0 of the fine and \$ ALL of the penalty assessment is suspended for 1 year(s).
A \$25.00 fee is assessed in each case file when a fine is paid on a date later than sentencing.
 - B. The defendant is ordered to make restitution of \$ _____ to _____
 Through the Department of Corrections as directed by the Probation/Parole Officer. A 17% administrative fee is assessed for the collection of restitution
 At the request of the defendant or the Department of Corrections, a hearing may be scheduled on the amount or method of payment of restitution.
 Restitution is not ordered because _____
 - C. The defendant is to participate meaningfully and complete any counseling, treatment and educational programs as directed by the correctional authority or Probation/Parole Officer.
 - D. The defendant's license privilege to operate in New Hampshire is revoked for a period of _____ effective _____
 - E. Under the direction of the Probation/Parole Officer, the defendant shall tour the
 New Hampshire State Prison House of Corrections
 - F. The defendant shall perform 200 hours of community service and provide proof to
 the State or probation within 1 year of today's date.
 - G. The defendant is ordered to have no contact with _____
either directly or indirectly, including but not limited to contact in-person, by mail, phone, e-mail, text message, social networking sites and/or third parties
 - H. Law enforcement agencies may destroy the evidence return evidence to its rightful owner.
 - I. The defendant is ordered to be of good behavior and comply with all the terms of this sentence
 - J. Other:

Pursuant to Part I, Article 11 of the New Hampshire Constitution, the defendant shall no longer have the right to vote under the constitution of this state in New Hampshire

Date 2/28/19

T. Nadeau
Presiding Justice
Tina L. Nadeau
Presiding Justice

* Parties have also entered into a cooperation agreement.

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Strafford Superior Court
259 County Farm Road, Suite 301
Dover NH 03820

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

RETURN FROM SUPERIOR COURT

Case Name: State v. Spencer W McKinnon
Case Number: 219-2018-CR-00691

Name: Spencer W McKinnon, [REDACTED] NH

DOB: [REDACTED]

Charging document: Indictment

Offense: Vote in More than 1 State	GOC:	Charge ID: 1544268C	RSA: 659:34-a	Date of Offense: November 08, 2016
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Disposition: Nolle Pros

Date: February 28, 2019

Action taken: By Prosecutor

Pursuant to plea deal

Matthew Broadhead

J-ONE: State Police DMV

C: Dept. of Corrections Offender Records Sheriff Office of Cost Containment
 Prosecutor John J. Kennedy, ESQ Defendant Defense Attorney P. Scott Bratton, ESQ
 Other _____ Dist Div. _____

THE STATE OF NEW HAMPSHIRE
INDICTMENT

STRAFFORD, SS.

SEPTEMBER TERM, 2018

At the Superior Court, holden at Dover, within and for the County of STRAFFORD aforesaid, on the 20th day of September in the year of our Lord two thousand and eighteen

THE GRAND JURORS FOR THE STATE OF NEW HAMPSHIRE, upon oath, present that

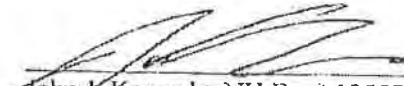
SPENCER WILLIAM MCKINNON
(DOB: [REDACTED])

of Durham, New Hampshire, in the State of New Hampshire, on or about November 8, 2016, did commit the crime of

VOTING IN MORE THAN ONE STATE IN THE SAME ELECTION
(RSA 659:34-a)

in that, Spencer William McKinnon, knowingly checked in at the checklist and cast a New Hampshire ballot in Durham for the November 8, 2016 General Election, and said ballot contained one or more federal or statewide offices listed on the ballot, and he also cast a ballot in Dracut, Massachusetts during the same November 8, 2016 General Election, and said ballot contained one or more federal or statewide offices listed on the out-of-state ballot.

Said acts being contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.


John J. Kennedy, NH Bar# 19557
Assistant Attorney General

*Welle Prosecution present to P/ta
MKB
9/28/18*

This is a true bill.

 9-20-18

Foreperson

SSC#219 2018 CR 691

CHG ID# 1544218C

000021
Waiver of Arraignment

Name: Spencer William McKinnon
DOB: [REDACTED]
Address: [REDACTED]
RSA: RSA 659:34-a
Offense level: Class B Felony
Dist/Mun Ct: N/A

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

February 28, 2019

Honorable Stephen Shurtleff
Speaker of the House
State House, Room 311
107 North Main Street
Concord, NH 03301

Honorable Melanie Levesque
Chair, Senate Committee on Election Law
and Municipal Affairs
Legislative Office Building, Room 102
107 North Main Street
Concord, NH 03301

Honorable Donna Soucy
President of the Senate
State House Room 302
107 North Main Street
Concord NH 03301

Honorable David Cote
Chair, House Committee on Election Law
Legislative Office Building, Room 308
107 North Main Street
Concord, NH 03301

Re: Domicile Affidavit Investigation

Dear Mr. Speaker, Madam President, and Committee Chairs:

Pursuant to RSA 654:12, V (f), enclosed please find the Report of Investigation Regarding Domicile Voter Affidavits. The affidavits that were the subject of this investigation were referred to this Office by the Department of State on January 10, 2018 and January 31, 2018.

Sincerely,

A handwritten signature in black ink, appearing to read "MTB", written over a horizontal line.

Matthew T. Broadhead
Assistant Attorney General
Election Law Unit
(603) 271-3650
matthew.broadhead@doj.nh.gov

CC: Honorable William M. Gardner, Secretary of State
Enclosures

STATE OF NEW HAMPSHIRE
DEPARTMENT OF JUSTICE

REPORT OF INVESTIGATION REGARDING
DOMICILE VOTER AFFIDAVITS

In order to register to vote in New Hampshire, a prospective voter is required to be at least 18 years of age, a United States citizen, domiciled in the ward or town in which the applicant seeks to register, and must not be otherwise unqualified to vote. RSA 654:7, I. When registering to vote, an individual is permitted to establish domicile by completing a domicile affidavit. RSA 654:12, I (c) (2016). Pursuant to RSA 654:12, V, the Secretary of State and the Attorney General are responsible, respectively, for reviewing and investigating executed domicile affidavits in order to determine whether fraudulent registration or voting occurred. This report, filed pursuant to RSA 654:12, V (f), summarizes the results of this investigation.

The voter registration statutes were amended by Senate Bill 3 (2017) which partially went into effect September 8, 2017.¹ All of the affidavits subject to this investigation were completed by individuals registering to vote prior to the effective date of Senate Bill 3.

INVESTIGATIVE STEPS

The Secretary of State is required to send address verification letters to all individuals who executed a domicile affidavit when registering to vote. RSA 654:12, V (d). In the event that an address verification letter is returned by the United States Postal Service as undeliverable, the Secretary of State is authorized to “conduct an inquiry” into these individuals in order to assess the person’s qualifications to vote in New Hampshire. RSA 654:12, V (e). “After such inquiry, the secretary shall prepare and forward to the attorney general for investigation a list of those

¹ Pursuant to a September 8, 2017, Superior Court Order some of these statutory changes were partially enjoined. A subsequent Superior Court Order enjoined the use of voter registration forms codified in Senate Bill 3 beginning on November 8, 2018.

people whose eligibility to vote could not be confirmed.” *Id.* The Attorney General “shall cause an investigation to be made to determine whether fraudulent registration or voting occurred.”

See RSA 654:12, V (e).

The Department of State, in conducting its initial inquiry, verified the vast majority of individuals who executed domicile affidavits by mailing address verification letters. For those individuals whose letters were returned as “undeliverable,” the Department of State verified the domicile addresses of individuals through the use of the National Change of Address records maintained by the United States Postal Service. Additionally, the domicile addresses of some individuals were confirmed with the help of local election officials or by using a credible third-party address resource. Of the 386 individuals who were subject to this review, the Department of State was able to verify the domicile addresses of all except 25 individuals. These individuals were then referred to this Office for further investigation to determine whether fraudulent registration or voting occurred.

Chief Investigator Richard Tracy of the Election Law Unit was assigned to conduct this investigation. To conduct this inquiry, Investigator Tracy initially reviewed publicly available sources or contacted local election officials to verify the domicile addresses of the voters. If unable to confirm the voter’s domicile address through either of these means, Investigator Tracy attempted to verify an individual’s domicile through the use of law enforcement databases, directly contacting the individual or conducting witness interviews.

On behalf of the Attorney General’s Office, one attorney and one investigator worked a combined total of at least 52.5 hours on this investigation. Although the Department of State expended significant resources in conducting this investigation, it did not maintain time records

on this project. This Office also does not have time records for the work performed by municipal officials who assisted in this investigation.

RESULTS OF THE INVESTIGATION

On January 10, 2018, this Office received a report from the Department of State indicating they sent address verification letters to 338 individuals who signed domicile affidavits as they registered to vote between January 1, 2017 and June 30, 2017. Although most of the affidavits were completed by individuals during this timeframe, during the course of the investigation conducted by this Office, it was discovered that a small number of the affidavits were actually completed during the November 8, 2016, General Election. Of the 338 individuals who signed domicile affidavits during this time period, 46 letters were returned by the Postal Service marked as "return to sender" or "not deliverable." Afterward, the Secretary of State was able to verify the addresses of 22 individuals through additional efforts described above. The remaining 24 individuals were referred to this Office for further investigation.

On January 31, 2018, this Office received a second report from the Department of State indicating they sent address verification letters via U.S. Mail to 48 individuals who signed domicile affidavits as they registered to vote between July 1, 2017, and September 7, 2017. Only 1 letter was returned by the Postal Service as "not deliverable" and referred to this Office for further investigation.

Of the combined total of 25 individuals who were referred for investigation in January 2018, this Office verified the domicile address of 24 individuals and concluded that one person wrongfully voted. In three instances, this Office opened separate investigations into whether or not RSA 659:34 had been violated.

In the first matter, this Office concluded that a voter violated RSA 659:34 by wrongfully voting in a place where she was not domiciled and, accordingly, issued a civil penalty. The civil penalty assessment is attached to this report. In the second matter, this Office determined that the voter's address was not initially verified by the Department of State because the individual's name was entered incorrectly into our statewide voter database, ElectionNet, by a local election official. Once the error was discovered, this Office was able to verify the domicile address of the voter. Finally, prior to a city election in November of 2017, an individual registered to vote in person in September 2017 and provided a motel address as her domicile. During an interview, this individual explained that, prior to registering to vote, she had recently moved to New Hampshire from Florida in August 2017. While in New Hampshire, she lived at this motel address until October 2017 when, prior to the city election, she ultimately decided to return to Florida. This individual has not voted in any New Hampshire election and there was insufficient evidence that she made a false statement on her registration form. *See* RSA 659:34 I (a).

**DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
CONTINUATION OF INVESTIGATION/ARREST REPORT**

Matter #	Case Name	Investigator	Report Date
2018134507	Kenneth Kettering New Hampton Moderator Complaint (TARDIF, Thomas Complainant)	Richard C. Tracy	March 14, 2019

March 12, 2019 Town Election day in New Hampton I responded to the New Hampton polling location with a goal of speaking with the Moderator about a complaint we received from Thomas TARDIF a County Commissioner candidate during the September 11, 2018 primary election.

Thomas TARDIF



TARDIF sent a written complaint with photos attached. TARDIF provided a copy of RSA 659:43, **Distributing Campaign Materials at Polling Place**. TARDIF feels that there were two violations taking place on September 11, 2018. First that he was made to stand in a roped off electioneering zone that he estimates was 100 to 150 "linear" feet from the entrance to the polls. Secondly that there were several unattended signs left within the electioneering zone.

On March 12, 2019 I met with the Moderator:

Kenneth KETTENRING, Town Moderator



I explained the purpose of my visit. KETTENRING and I both went outside to view the area and discuss this matter. KETTENRING stated that 12 to 15 years ago when he first became the moderator in New Hampton he spoke with someone at the AG's office whose name he cannot recall, to discuss this very setup for the electioneering zone, which KETTENRING has been using in the Town of New Hampton since without a complaint until now. KETTENRING feels this is the safest location for both electioneers and voters. KETTENRING stated that he is not opposed to an electioneer standing at one entrance or the other of the parking lot. KETTENRING believes that all voters have equal view of those electioneering and at the same time the voter is provided with safe access to the polls.

KETTENRING referred to page 185 of the State's Election manual the second paragraph that reads "The moderator is responsible for establishing a ten-foot-wide, at a minimum, no-electioneering zone from the entrance door(s) of the polling place as far into the

Page	1	of	2	pages	SIGNED		DATE	3 - 20 - 19
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DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
CONTINUATION OF INVESTIGATION/ARREST REPORT

Matter #	Case Name	Investigator	Report Date
2018134507	Kenneth Kettering New Hampton Moderator Complaint (TARDIF, Thomas Complainant)	Richard C. Tracy	March 14, 2019

driveway/parking area as he or she determines appropriate to provides voters with a clear path to the polls.”

KETTENRING pointed out the three signs that he has in place to determine the no-electioneering zone. I explained to KETTENRING that I was asked to speak with him about the complaint and to point out that this could potentially lead to a civil action on the part of TARDIF if he feels his first amendment rights are being infringed upon by being made to stay that distance away from the polling entrance. KETTENRING was receptive to our conversation stating that if the Attorney General’s office advises him to move the electioneering zone he would reluctantly do so as he reinforced that this has worked for close to 15 years without complaint until now.

I turned the conversation to the attended signs depicted in the photo provided by TARDIF. KETTENRING explained that his past practice is to leave the signs up as long as they represent both parties (Democrats and Republicans). I explained to KETTENRING that our recommendation is that any sign that is not being held or is within arm’s length of someone manning the sign then we would like for the moderator or his designee to lie the sign down on the ground.

I thanked KETTENRING for his time and told him that after I confer with Assistant AG Matthew Broadhead that one of us would get back to him about our findings.

Refer to attached photos of the outside of the New Hampton Polling location. KETTENRING informed me that where the electioneering area is today is where it has been for the past 12+ years.

Page	2	of	2	pages	SIGNED		DATE	3-20-19
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000029

Kenneth Kettenring New Hampton Moderator

3/21/2019

In response to this complaint Investigator Tracy visited New Hampton during the March 12, 2019 town elections. See the enclosed narrative report. Investigator Tracy took photographs of the polling location as well. After reviewing the information in the file, it appears that Mr. Kettenring is compliant with RSA 659:43 and the Election Procedure manual, as it pertains to setting up a no-electioneering zone. Mr. Kettenring was advised that he needs to be more vigilant about making sure that there are no unattended signs at the polling place.

On March 21, 2019, I spoke with Mr. Tardiff, the complainant, of the results of this Office's communications with Mr. Kettenring. No further action will be taken on this matter. -MTB



**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 25, 2019

Town Clerk Marilyn Bedell
[REDACTED]

Re: Ballots from Town Election

Dear Clerk Bedell

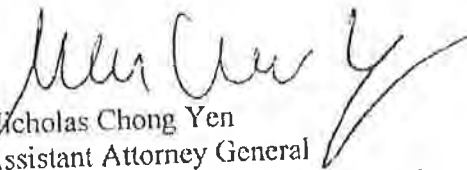
We received two complaints regarding the ballots utilized by the Town of Monroe during the March 12, 2019 elections. The complaints expressed concern over the failure of the ballots to include a square box next to each candidate's name, or a write-in candidate's line.

Please be advised, pursuant to RSA 669:23, directly to the right of the name of each candidate there shall be a square. In speaking with you, you admitted that you were unable to meet this requirement due to unfamiliarity with the software you utilized in creating the ballot.

We appreciate you acknowledging this error and indicating you will remedy the issue moving forward. Should you require any additional assistance, the Help America Vote Act ("HAVA") Helpdesk is a great resource. HAVA can be reached at: (800) 540-5954.

If you have any other questions or concerns, please feel free to contact me.

Sincerely,


Nicholas Chong Yen
Assistant Attorney General
New Hampshire Department of Justice
(603) 271-3650
nicholas.chongyen@doj.nh.gov

CC: David Scanlan, Deputy Secretary of State

000031

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

ORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 25, 2019

Vince Edwards


Re: Cease and Deist Order
Warning for Violation of RSA 664:14

Dear Mr. O'Neill:

Our office received a complaint on March 7, 2019 before the Town Elections that your political advertisements, specifically signs for your campaign for school board, failed to identify who was responsible for them.

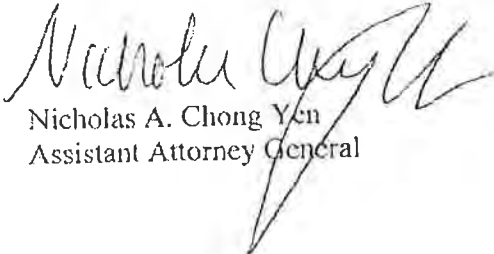
In speaking with Investigator Richard Tracy, you admitted that you were responsible for the creation and distribution of the advertisements. You were informed of this violation and agreed to correct the issue. We appreciate your attention to this matter and quick action in remedying the problem.

Please be advised, pursuant to RSA 664:14: "[a]ll political advertising shall be signed at the beginning or the end with...the name and address of a natural person" who is responsible for the advertisement. A violation of this nature constitutes a misdemeanor under RSA 664:21.

In the future should you choose to again run for election, your political advertisements must include your name and address.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,


Nicholas A. Chong Yen
Assistant Attorney General

000032

Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

CC: David Scanlan, Deputy Secretary of State

000033

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

ORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 25, 2019

Shawn O'Neill



Re: Cease and Deist Order
Warning for Violation of RSA 664:14

Dear Mr. O'Neill:

Our office received a complaint on March 7, 2019 before the Town Elections that your political advertisements, specifically signs for your campaign for school board, failed to identify who was responsible for them.

In speaking with Investigator Richard Tracy, you admitted that you were responsible for the creation and distribution of the advertisements. You were informed of this violation and agreed to correct the issue. It has been brought to our attention following the Town Elections that you did not add language to your signs that complied with the statute.

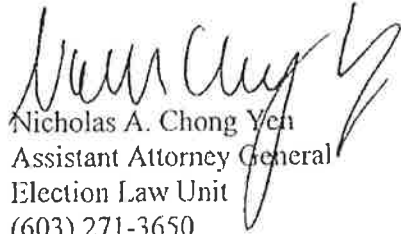
Please be advised, pursuant to RSA 664:14: "[a]ll political advertising shall be signed at the beginning or the end with...the name and address of a natural person" who is responsible for the advertisement. A violation of this nature constitutes a misdemeanor under RSA 664:21.

While the Town Elections may have concluded, in the future should you choose to again run for election, you are ordered to cease and desist from any further violations of RSA 664:14. Your political advertisements must include your name and address. Failure to do so may result in criminal prosecution, a civil penalty, or other enforcement actions.

If you have any questions or concerns, please do not hesitate to contact me.

000034

Sincerely,


Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

CC: David Scanlan, Deputy Secretary of State

000035

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

ORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 25, 2019

Edward Lang


Re: Cease and Deist Order
Warning for Violation of RSA 664:14

Dear Mr. O'Neill:

Our office received a complaint on March 7, 2019 before the Town Elections that your political advertisements, specifically signs for your campaign for school board, failed to identify who was responsible for them.

In speaking with Investigator Richard Tracy, you admitted that you were responsible for the creation and distribution of the advertisements. You were informed of this violation and agreed to correct the issue. It has been brought to our attention following the Town Elections that you did not add language to your signs that complied with the statute.

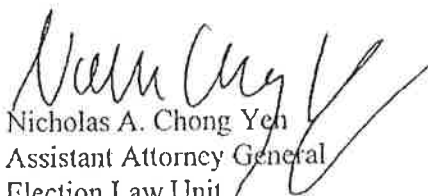
Please be advised, pursuant to RSA 664:14: "[a]ll political advertising shall be signed at the beginning or the end with...the name and address of a natural person" who is responsible for the advertisement. A violation of this nature constitutes a misdemeanor under RSA 664:21.

While the Town Elections may have concluded, in the future should you choose to again run for election, you are ordered to cease and desist from any further violations of RSA 664:14. Your political advertisements must include your name and address. Failure to do so may result in criminal prosecution, a civil penalty, or other enforcement actions.

If you have any questions or concerns, please do not hesitate to contact me.

000036

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas Chong Yeh". The signature is written in a cursive style with a large, sweeping flourish at the end.

Nicholas A. Chong Yeh
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

CC: David Scanlan, Deputy Secretary of State

000037

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

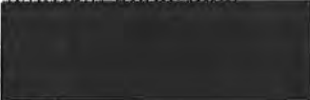
GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

March 28, 2019

Debra Paul, Publisher
Nutfield Publishing



Re: Nutfield Publishing
Warning for Violations of RSA 664:14 & RSA 664:16

Dear Ms. Paul:

On February 19, 2019, the Department of State forwarded to this Office several concerns that were raised by two residents of Londonderry, John Farrell and Thomas Freda. The issues raised were related to a weekly political advertisement that ran in the Londonderry Times for approximately five (5) weeks leading up to the March 12, 2019 election. The advertisement supported your candidacy for Town Council. The Londonderry Times is owned and operated by your company, Nutfield Publishing. Chief Investigator Richard Tracy conducted an investigation.

As the publisher of the newspaper, a concern was raised that you may not have charged yourself the same advertising rate that you were billing to other candidates. This complaint was unfounded. By way of background, "[n]o person or business organization publishing a newspaper or periodical...shall charge an advertising rate to any candidate...that is different from that charged to any other candidate[.]" RSA 664:16. A violation of this provision by a business organization could constitute a felony. RSA 664:21, V.

You provided this Office with a copy of your personal check that was made payable to Nutfield Publishing. The check was dated February 8, 2019. However, this check was not deposited into a bank account until February 20, 2019, at 4:19 pm, *after* you were initially interviewed by Investigator Tracy and approximately two (2) weeks after the advertisement had first been published. You explained that your bank assesses a fee for check deposits and you wait until you have a large number of checks in order to make deposits. We note also that Nutfield Publishing's Terms of Payments sheet does not necessarily require pre-payment for this type of advertising, especially for known or reliable customers. After reviewing this matter, we have concluded that you did not violate RSA 664:16 because the rate charged to your campaign

was consistent with the standard advertising rates offered to other candidates by Nutfield Publishing.

However, the subject political advertisement failed to comply with RSA Chapter 664 in several respects. "All political advertising shall be signed at the beginning or the end with the names and addresses of the candidate...responsible for it." RSA 664:14. I. The advertisement in question stated that it was "Paid for by Deb Paul," but it failed to contain the required address information. Additionally, RSA 664:16 requires political advertisements printed in newspapers or periodicals to be marked "at the beginning or the end thereof with 'Political Advertising.'" The purpose of this is to distinguish newspaper editorials, endorsements, articles, or letters from paid advertisements. The subject political advertisement stated "Debra Paul, Publisher of the Londonderry Times, will put her knowledge to work for you as a Town Councilor," and did not contain the required designation.

Finally, "[r]ates for advertising shall be filed, no later than 30 days prior to the deadline for filing for office for an election, with the secretary of state by each person or business organization publishing a newspaper or periodical." RSA 664:16. Nutfield Publishing failed to file any such rate card with the Secretary of State's office.

The remaining concerns raised by the two individuals were reviewed and this Office determined that there were no other election law violations.

Please take steps to correct the above-referenced violations going forward. Our office will not be taking any further action on this matter. However, in the event that you again violate any provision of RSA Chapter 664, our office may pursue regulatory or enforcement action. If you have any questions or concerns, please do not hesitate to contact myself or Investigator Tracy.

Sincerely,



Matthew T. Broadhead
Assistant Attorney General
Election Law Unit
(603) 271-3650
matthew.broadhead@doj.nh.gov

cc: David Scanlan, Deputy Secretary of State
John Farrell, Londonderry, Town of
Thomas Freda, Londonderry, Town of

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 16, 2019

Rebekah Silva
[REDACTED]

Re: [REDACTED] - Notary complaint (Rebekah Silva, complainant)

Dear Ms. Silva,

I write in response to your June 7, 2017, letter to the NH Secretary of State, regarding your concern that [REDACTED] a Notary in the State of New Hampshire failed to uphold her responsibilities as a notary in the State of New Hampshire by allowing [REDACTED] to sign documents on behalf of her husband [REDACTED]. I spoke with [REDACTED] who provided copies of her notary log book from that time frame, which contains [REDACTED]'s name, address and driver's license number as being the party standing before her on June 3, 2017, who verified that he is the party responsible for the "pleading". Further [REDACTED] denied that she knows [REDACTED]. At this time there is no evidence that a crime has been committed.

Please be advised that this matter is now closed. Should you find additional information to prove otherwise, feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Tracy".

Richard C. Tracy
Chief Investigator
Criminal Justice Bureau
(603) 271-3671
richard.tracy@doj.nh.gov

RCT/rct
Enclosure

000040

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 18, 2019

Donna Straitiff
Library Director
PO Box 224
Rindge, NH 03461

Re: Electioneering by Public Employees

Dear Ms. Straitiff:

We received a complaint on April 4, 2019 alleging a violation of RSA 659:44-a – Electioneering by Public Employees.

Please be advised, RSA 659:44-a prohibits public employees from electioneering while in the performance of his or her duties. To “electioneer” means to, “act in any way specifically designed to influence the vote of a voter on any question or office.” RSA 659:44-a, III. Public employees are also prohibited by this statute from using government property or equipment to electioneer.

After speaking with Ringe Town Counsel, Attorney Gary Kinyon, we learned that as Library Director, you are appointed by the Library’s Board of Trustees. We also learned from Attorney Kinyon, that the Board of Trustees is comprised of elected positions.

Under RSA 273-A:1, IX, your role as Library Director would not fit the definition of “public employee” because you are appointed by the chief executive of the public employer, in this case, the Board of Trustees. Furthermore, the members of the Board of Trustees would not constitute public employees because they are elected by popular vote. RSA 273-A:1, IX(a).

Consequently, we have found no violation of RSA 659:44-a. At this time, the matter is now closed. Should you have any questions, please do not hesitate to contact me.

000041

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Ingalls Memorial Library, Board of Trustees
Attorney Gary Kinyon
Robert Hamilton

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 19, 2019

Otto Herrmann
[REDACTED]

Re: CEASE AND DESIST ORDER
Warning for violation of RSA 659:34

Dear Mr. Herrmann:

On November 6, 2018, you submitted an absentee ballot for the 2018 State General Election. You submitted this absentee ballot to the polling location located in the Town of Stark. As a result, election officials included your name on a checklist that identified all absentee voters.

In reviewing this case, Investigator Richard Tracy, Chief Investigator at the Department of Justice, learned that your New Hampshire Driver's License expired on January 26, 2015. You did not renew this license. Additionally, Investigator Tracy also learned that you identify [REDACTED] as your primary address. Furthermore, he observed that [REDACTED] had not been your active address since 2012.

On January 25, 2019, Investigator Tracy spoke with you over the phone regarding your domicile. You admitted that the house at [REDACTED] is uninhabitable. You also admitted that you no longer have any vehicles registered in New Hampshire. You shared that you dropped your New Hampshire driver's license for a New York driver's license because your animals are domiciled in New York. Finally, you admitted that you only occasionally visit Stark, New Hampshire, and during those trips, you do not stay at [REDACTED] but instead with a friend at a different property.

In New Hampshire, in order to vote in a town, ward, or unincorporated place you must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1, I (emphasis added). A resident does not lose their place of domicile during a temporary absence if they intend to return to their place of domicile.

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See RSA 654:2, I. The plain and ordinary meaning of the word "temporary" means "[l]asting for a time only; existing or continuing for a limited (usually short) time." BLACK'S LAW DICTIONARY (8th ed. 2004). A "voter can only have one domicile for voting purposes." RSA 654: 2 I. (emphasis added).

There is no evidence that you currently reside or intend to reside at [REDACTED]. Instead, Investigator Tracy discovered that you chose to drop your New Hampshire's driver's license in favor of a New York driver's license, which is the same state where you explained your animals are domiciled. Furthermore, you did not express any intent to return to Investigator Tracy that would suggest that your absence from [REDACTED] has been temporary. To the contrary, you have described the house as uninhabitable, having not used it as your primary address since 2012, and referenced your other properties in New York, Massachusetts, and Virginia.

While you did reference to Investigator Tracy some vague plan to build a house on the property of [REDACTED] you did not provide any details about the status of this construction nor did you present any evidence of an intent to designate Stark, more than any other place, your location for participating in domestic, social, and civil activities relevant to democratic self-government.

As a result, we have concluded that you were not domiciled in Stark, NH during the 2018 State General Election. Be advised that your actions could have constituted a violation of RSA 659:34, I (e) which prohibits "vot[ing] for an office or measure at an election if such person is not qualified to vote as provided in RSA 654."

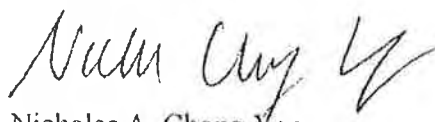
Pursuant to Part I, article 11 of the New Hampshire Constitution, RSA 659:34, and RSA 654:1, and based upon the investigation conducted by our office, you are hereby ordered to **Cease and Desist from voting in Stark, New Hampshire unless and until you establish your domicile there.** Failure to comply with this Cease and Desist Order may result in this office pursuing criminal prosecution or civil penalties.

If you have any additional questions, please do not hesitate to contact me.

Cease and Desist Order Issued

By Authority of:

Gordon J. MacDonald
Attorney General


Nicholas A. Chong Yen
Assistant Attorney General

cc: Town Clerk of Stark, New Hampshire

000044

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 24, 2019

Scott Harper
[REDACTED]

Re: Wrongful Voting Complaint

Dear Mr. Harper:

On November 5, 2018, we received a complaint alleging that you and your wife arrived at the Laconia City Hall and requested absentee ballots. You were then observed taking both ballots and completing them yourself. The assistant city clerk informed you that your wife needed to complete her own ballot. In response, you ignored the assistant city clerk by moving further down the counter to continue filling out both ballots.

Chief Investigator Richard Tracy spoke with you, and during the conversation, you denied the allegation, insisting that your wife voted on her own. This was contrary to the report from the assistant city clerk. You later contacted Investigator Tracy to inform him that you returned to city hall with your wife to straighten out the matter, during which, she completed her own ballot.

Please be advised, that the law requires an absentee ballot to be filled out by the individual applying for it. N.H. RSA 657:6. But, if a family member has a physical disability that prohibits them from casting his or her own ballot, the law permits a person to assist the voter. The person offering assistance must complete and submit an affidavit indicating that they are helping a voter with a disability. N.H. RSA 657:17.

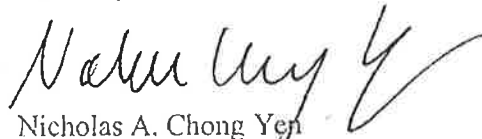
Any further failure to comply with absentee voting procedure or the affidavit requirement may result in a cease and desist order, enforcement action, and/or criminal prosecution.

Should you have any questions, please do not hesitate to contact me.

000045

Page 2 of 2

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas A. Chong Yen", with a stylized flourish at the end.

Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Laconia City Clerk

000046

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 24, 2019

Jonathan S. Berkon, Esq.
Perkins Coie LLP
700 13th Street, NW, Suite 600
Washington, D.C. 20005-3960

Re: Community Outreach Group Political Committee Registration Complaint

Dear Attorney Berkon:

On September 25, 2018, our office received a complaint from Benjamin Dizoglio, formerly an employer of your client, Community Outreach Group, LLC. The complaint alleged that your client was engaging in express advocacy without having registered as a political committee, contrary to New Hampshire's laws.

After reviewing the materials provided by Mr. Dizoglio, your joint response with Attorney Jay Surdukowski, and the materials provided therein, we have determined that Community Outreach Group did not violate RSA 664:3 requiring the registration of political committees.

This conclusion is based on our determination that Community Outreach Group constitutes a vendor and not a political committee within the definition of RSA 664:2, III.

Vendors do not make expenditures since they are not "disbursing money or a thing of value...by a political committee to another political committee or to a candidate for the purpose of promoting the success or defeat of a candidate." N.H. RSA 664:2, IX.

Community Outreach Group is therefore no different than printing companies, or companies providing mailing services because it too offers a service for a price. Its purpose is to make a profit, and the expenditure is made by your client (the vendor) to its employees or contractors, not to candidates or political committees.

As for Win Together, Inc., it has clearly engaged in "expenditure[s] that pays for communication[s] that expressly advocates the election or defeat of clearly identified candidates." N.H. RSA 664:2, XI through its purchasing of Community Outreach Group's

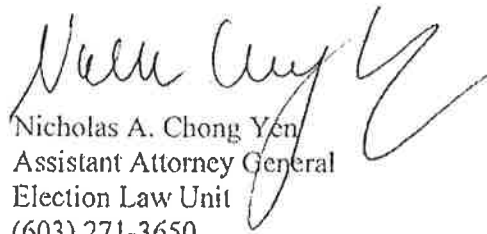
000047

Community Outreach Group Political Committee Registration Complaint
Page 2 of 2

services. Win Together has appropriately disclosed said expenditures through its filings with the Secretary of State's office.

Based on the foregoing, this matter is now closed. Should you have any further questions, please do not hesitate to contact me.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Kate Ellis, Executive Director – Community Outreach Group, LLC
Jay Surdukowski, Esq., Counsel to Win Together, LLC – Sulloway & Hollis
Benjamin Dizoglio

000048

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

April 26, 2019

Stanley A. Cataldo
[REDACTED]

Re: Alleged Wrongful Voting

Dear Mr. Cataldo:

On January 8, 2019, this office was notified by Stark Town Officials of their concerns that voters domiciled outside of Stark were voting in the town's election. Specifically, during the November 6, 2018 State General Election, multiple people not domiciled in Stark were alleged to have wrongfully voted at Stark's polling location.

Chief Investigator Richard Tracy reviewed documents provided by Stark Town Officials and learned that you were among those alleged to have wrongfully voted. In following-up on this allegation, Investigator Tracy learned that the road to access your camp, [REDACTED] in Stark, is unpassable for significant periods throughout the year. This road is not plowed during the winter and floods in the spring. Investigator Tracy was escorted to Sunny Acres Road, and observed no signs that the property was currently or had been recently occupied. Stark Town Official also notified Investigator Tracy that your family only occasionally spends weekends and/or vacations to the property at Sunny Acres Road. Finally, Investigator Tracy learned that the absentee ballots your family requested was mailed to [REDACTED] NH, not [REDACTED].

Please be advised in New Hampshire, in order to vote in a town, ward, or unincorporated place you must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1, I (emphasis added).

A resident does not lose their place of domicile during a temporary absence if they intend to return to their place of domicile. See RSA 654:2, I. The plain and ordinary meaning of the word "temporary" means "[l]asting for a time only; existing or continuing for a limited (usually

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short) time.” BLACK’S LAW DICTIONARY (8th ed. 2004). A “voter can only have one domicile for voting purposes.” RSA 654: 2 I. (emphasis added).

Any failure to comply with these laws may result in a cease and desist order, enforcement action, and/or criminal prosecution.

We hope this information will be useful to you in future elections. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Town Clerk of Stark, New Hampshire
Martha Cataldo
Dorothy Cataldo

000050

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 1, 2019

Susan Croteau
Town Clerk
1189 Stark Highway
Stark, NH 03582

Bill Joyce
Stark Moderator



Re: John Doe Voter Suppression Complaint

Dear Clerk Croteau and Mr. Joyce:

On January 8, 2019, Assistant Attorney General Matthew Broadhead and Chief Investigator Richard Tracy met with you and other town officials at the Stark Town Hall. During this meeting, you shared concerns that voters domiciled in other towns and states were voting in Stark. In particular, you identified the following individuals as allegedly violating our election laws: [REDACTED] Otto Herrmann, [REDACTED] Stanley Cataldo, Martha Cataldo, Dorothy Cataldo.

This office has already addressed the matters involving Mr. Herrmann and the Cataldo family in letters sent under separate cover. These letters were forwarded to you on April 19, 2019 and April 26, 2019 respectively.

In the matters of [REDACTED] as well as [REDACTED] after careful consideration, we have determined that no violation has occurred. In reaching this determination, we reviewed all the documents you provided on January 8th, spoke with you and the Stark election officials, as well as examined election documents pertaining to both the [REDACTED] and [REDACTED]

Pursuant to RSA 654:1, a person's domicile for voting purposes "is that one place where a person, more than any other place, has established a physical presence and manifests an intent

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to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government.”

With respect to the [REDACTED] Investigator Tracy spoke with [REDACTED] who explained she and [REDACTED] sold their home in Milan, NH 3 years ago. One year ago, [REDACTED] explained that she and her husband put up for sale their store in Milan, and have taken steps to make their Stark residence livable year-round. They intend to live in Stark for most of the year and winter in Florida. Investigator Tracy also learned that the [REDACTED] register their vehicles in Stark. A subsequent search conducted by Investigator Tracy revealed that the [REDACTED] stopped using their Milan residence as their primary address in 2015. He was also able to confirm that the store is indeed for sale. In light of this evidence, it appears the [REDACTED] have made Stark their domicile.

With respect to [REDACTED] records indicate both surrendered their Connecticut driver's licenses. [REDACTED] surrendered his when he received his NH driver's license in January of 2017. [REDACTED] did the same when she received her NH driver's license in March of 2018. [REDACTED] also registered his vehicle and trailer in NH as well. Additionally, Investigator Tracy contacted the Harwinton Connecticut Town's Clerk and learned that both [REDACTED] had been regular voters. However [REDACTED] last cast a vote in Connecticut in November of 2016. [REDACTED] last voted in Connecticut in November of 2017. This information, combined with the [REDACTED] residence in Stark, and registering to vote in NH, is evidence of domicile.

Based on the forgoing, we have found no violation of election laws as both the [REDACTED] and [REDACTED] were appropriately domiciled in Stark, NH during the November 2018 elections.

At this time, the matter is now closed. Should you have any questions, please feel free to contact me.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 6, 2019

Adam Leiser


Re: Alleged Tampering With Public Records

Dear Mr. Leiser:

On December 10, 2018 we received your complaint alleging that the village district administrator of Eidelweiss added details to the September 25, 2018 meeting minutes that were not actually discussed.

Please be advised, the Department of Justice's Election Law Unit does not handle this type of matter. As such, should you wish to pursue this matter further, please feel free to file your complaint with your local police department or County Attorney's Office.

Should you have any other questions, do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas A. Chong Yen".

Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

000053

Events Note to File

Friends of Chris Sununu
Campaign Finance Complaint

2018133870 5/8/2019 Note to File
2:33 PM

(NCY) Matter Now Closed.

Complaint was received on October 2, 2018. MTB wrote to Mr. Buckley on October 4, 2018 to supplement his complaint because there was insufficient information to determine if there was a violation.

To date, Mr. Buckley has not responded to MTB's letter.

As such, the matter will now be closed.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 8, 2019

Richard Bielinski
[REDACTED]

Re: Town of Londonderry Warrant Article Complaint

Dear Mr. Bielinski:

On March 4, 2019, we received your complaint expressing concern that the passage of a warrant article authorizing the Town of Londonderry's purchase of a new generator for the police department might violate New Hampshire election laws. Specifically, you alleged that the Town did not post an appropriate warrant article as the warrant article on the ballot failed to indicate the Town's intent to keep the old generator. After careful consideration, we have found no violation of the election laws.

In reaching this determination, Chief Investigator Richard Tracy obtained information through interviews with you and the Town Manager, Kevin Smith, in addition to acquiring a copy of the warrant article.

N.H. RSA 39:2 governs what a town must include in its warrant article. Particularly relevant here, is the following requirement: "[t]he subject matter of all business to be acted upon at the town meeting shall be distinctly stated in the warrant." RSA 39:2.

In this case, the Town posted warrant article #15 identifying its intent to appropriate \$175,000 "for the purpose of purchasing an emergency back-up generator for the Police Department." The warrant article also identified what the source of the funds would be as well as the impact on Londonderry's taxes if the warrant article was passed. Therefore, we find that this warrant article complied with the statutory requirement. There is no requirement in New Hampshire law that the warrant article needed to explain what would happen with the original generator.

There may have been some confusion caused regarding the warrant article, when statements were made by Police Chief Bill Hart and Administrative Services Assistant Steve

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Town of Londonderry Warrant Article

Page 2 of 2

Cotton at the Deliberative Session on February 9, 2019, stating that the new generator was going to replace the existing generator.

The Town officials attempted to rectify any possible confusion caused by these statements at the Deliberative Session by sharing the information regarding the future of the existing generator with the voters on election day through the use of a large poster situated at the entrance to the polling place. We have no evidence of widespread confusion among voters based on the Town not including this information in the original article or by the statements that were made at the Deliberative Session.

While we acknowledge that town officials should be clear in the matter of appropriations, notably, the Department of Revenue Administration reviewed the warrant in question and found the language of the article was consistent with the purpose of the purchase.

Based on the foregoing, we conclude that the Town of Londonderry's warrant article did not violate New Hampshire's election laws. At this time, the matter is closed. If you have any other questions, please do not hesitate to contact me.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Kevin Smith, Town of Londonderry Town Manager
Town of Londonderry Town Clerk

000056

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 9, 2019

Jeffrey Clay
[REDACTED]

Re: Town of Alton Alleged Election Official Misconduct Complaint

Dear Mr. Clay:

On February 1, 2019, we received your complaint, alleging that the budget committee violated RSA 32:5. After careful review, we conclude there is no violation of our election laws.

In reaching this determination we reviewed the information accompanying your complaint, spoke with the Alton Town Administrator, obtained copies of the Warrant Articles and the January 9, 2019 Public Hearing meeting minutes, and contacted the Department of Revenue Administration.

RSA 32:5, I requires the governing body, or budget committee if there is one, to hold at least one public hearing on each budget, not later than 25 days before each annual meeting. In speaking with the Town Administrator, Chief Investigator Tracy learned that on January 9, 2019, the Alton Budget Committee held a meeting to finalize the Town Warrant Articles. According to the minutes from this meeting, public input was welcomed by the Budget Committee with respect to the proposed warrant articles as required by RSA 32:5, I. In light of the Public Hearing occurring more than 25 days before the annual meeting and evidence that the Budget Committee accepted public testimony, we find that the Town of Alton complied with the provisions of RSA 32:5.

The proposed appropriations contained inside these articles are recommendations by the Budget Committee and Board of Selectmen. It is left to the voters to decide whether to approve or reject these proposals. Based on the information we reviewed, that occurred in this case. According to the Warrant Articles posted on January 28, 2019, the Town of Alton Selectmen scheduled two sessions of its annual meeting: one on February 5, 2019 to deliberate upon the warrant articles; and a second on March 12, 2019 to approve the warrant articles by ballot vote.

000057

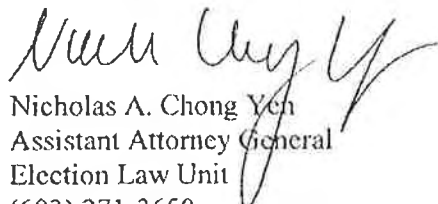
Page 2 of 2

RSA 39:2 states that the warrant for any town meeting must be issued by the selectmen, and prescribe the place, day and hour of the meeting. The subject matter of all business to be acted upon at the town meeting must also be distinctly stated in the warrant. RSA 39:2. We find that the Alton Selectmen complied with this requirement. Notably, the Department of Revenue Administration reviewed the Town of Alton's Warrant Articles and found them compliant.

Finally, you have referenced RSA 32:3 and 39:3 in your complaint. RSA 32:3, VI provides a definition of what constitutes a "special warrant article." While RSA 32:3, VI contains multiple subparagraphs, applicable here is RSA 32:3, VI(d). It defines a special warrant article as an article that proposes an appropriation and which is designated in the warrant, by the governing body, as a special warrant article. By identifying the articles in this case as "special warrant articles" the Alton Selectmen are simply stating that the proposed funds will not be used for any other purpose. RSA 39:3 is not applicable in this case because it is a statutory mechanism through which voters may petition the Selectmen to include an article of their own.

Based on the foregoing, we conclude there is no violation of our election laws. At this time the matter is now closed. Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Elizabeth Dionne, Alton Town Administrator

000058

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 15, 2019

James R. Howard

Re: Americans for Prosperity NH Campaign Finance Complaint
(ProLaw: 2018134296)

Dear Mr. Howard:

On October 29, 2018, we received your complaint, alleging that "Americans for Prosperity" (or "AFP") violated New Hampshire campaign finance laws by failing to register as a political committee and by failing to file an itemized campaign finance report. After careful consideration, we have found no violation of New Hampshire election laws.

In reaching this determination, we reviewed the information accompanying your complaint, as well as information provided by AFP in response to your complaint.

An organization is required to register as a political committee if it "promotes the success or defeat of a candidate or candidates or measure or measures." RSA 664:2, III(a). Even if an organization is not predominately organized for this purpose, it must still register as a political committee if it "makes expenditures that total \$5,000.00 or more in a calendar year." RSA 664:2, III(d) (emphasis added). "Expenditure" means the "distribution of money or thing of value... for the purpose of promoting the success of a candidate or candidates or measure or measures." RSA 664:2, IX; see also RSA 664:2, XI (expenditures also include payments for "the development and distribution of a communication that expressly advocates the election or defeat of a clearly identified candidate or candidates or the success or defeat of a measure or measure") (emphasis added).

The mailers in this case do not qualify as expenditures since they do not "expressly advocate" for a candidate's election or defeat. Moreover, the flyers do not advocate for or against any "measure" because there is no reference to any constitutional amendment or question that would appear on the ballot for the election. See RSA 664:2, X (A "measure" is "any

constitutional amendment or question which is submitted or intended to be submitted to a popular vote at an election.”)

An organization must register as a “political advocacy organization” if its communication “is functionally equivalent to express advocacy because, when taken as a whole, such communication is likely to be interpreted by a reasonable person only as advocating the election or defeat of a clearly identified candidate or candidates or the success or defeat of a measure or measures, taking into account whether the communication involved mentions a candidacy or a political party, or takes a position on a candidate's character, qualifications, or fitness for office.” RSA 664:2, XXII. (emphasis added).

Where the legislature included the term “only” within the statute, the communications can be interpreted in no other way than as advocating the election or defeat of Candidate Molly Kelly. The communications relevant for this analysis are the second, third, and fourth photocopies that accompanied your complaint. In this case, while the mailings can be interpreted as an attack on Candidate Kelly's position on specific issues of taxation, they do not necessarily take a position as to her character, qualifications, or fitness for office. Where the mailings were received close in time to the election, it is possible that they could be interpreted as advocating the defeat of Candidate Kelly. However, this is not the only likely interpretation. It is similarly likely that the mailings were an attempt to pressure Candidate Kelly into bringing her positions on these matters more in line with AFP's political ideals.

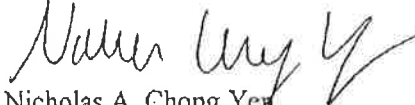
In 2015 and again in 2018, this office previously addressed a complaint about AFP's flyers, which were similar to the ones at issue here. See Exhibit 1, AAG LaBonte letter dated November 12, 2015; and Exhibit 2, AAG Broadhead letter dated July 26, 2018. The communications in those complaints mirror what is contained in the flyers you have attached with your complaint. All flyers across these three complaints discuss an elected official's vote on a particular issue. In the two prior complaints, we concluded that the flyers were subject to varying interpretations and as a result, AFP was not required to register as either a political committee or political advocacy organization within the meaning of the applicable statutes.

The three factors that aided in this determination were that: (1) the flyer discussed the voting record of an incumbent elected official; (2) the flyer did not identify the elected official as a candidate for re-election; and (3) the flyer did not reference the primary or general election. These same factors are present and applicable to the flyers at issue here.

Please be advised our office first reached this conclusion in 2015. Since that time, the Legislature has not amended RSA 664 to make it applicable to these types of communications. Therefore, as we have previously concluded, and as we do so here, AFP is not required to register as a political committee under the presented circumstances.

Based on the forgoing analysis, we have found no basis to support a violation and this matter is now closed. If you have any questions, please do not hesitate to contact me.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

Enclosures

cc: Steven M. Mairella, Esq. (counsel for AFP)

Events Note to File

██████████ Alleged
Wrongful Voting

2019136679 5/20/2019 Note to File
11:50 AM

NCY Matter Closed due to Unfounded

This matter was referred to this office from the 2018 Crosscheck program. The program flagged ██████████ as potentially having voted in both ME and NH.

In following-up on this referral and arriving at this determination, we obtained certified copies of election records from both NH and ME, spoke with the Hanover, NH town clerk, spoke with ██████████ reviewed ██████████'s time card from her place of employment, and subpoenaed Google data to determine the location of ██████████'s phone on or around the day of the election.

We learned that while ██████████ applied for an absentee ballot, she did not cast it in the Hanover, NH election. Additionally, on the day of the election, ██████████ was working in South Portland, ME. Furthermore, the Hanover, NH election records indicate that they never received ██████████'s absentee ballot. Based on the foregoing, it appears that the Hanover, NH ballot clerk mistakenly checked off ██████████'s name as having voted absentee, and that she in fact voted in ME only.

Consequently, no further action will be pursued and this matter is now closed.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 20, 2019

Attorney William Christie
ATTN: Amanda Spiller
P.O. Box 2703
107 Storrs Street
Concord, NH 03301

Re: Warning for Alleged Violation of Absentee Voting Law

Dear Ms. Spiller:

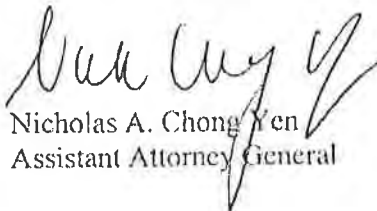
On November 9, 2018, we received a complaint alleging that you requested an absentee ballot be sent to you in Mexico. Chief Investigator Richard Tracy spoke with the town clerk and learned that you initially requested that the ballot be forwarded to your father's residence in Greenland. The town clerk told Investigator Tracy that a day before the election (November 5, 2018), you contacted her inquiring why you had not received your ballot and stating that you were in Mexico. After the town clerk informed you the ballot was sent to your father's residence, a minor arrived at the polling location and dropped off your absentee ballot.

On April 30, 2019, Investigator Tracy spoke with you. During the conversation, you admitted that you instructed a minor to deliver your absentee ballot.

Please be advised, that the law requires an absentee ballot to be filled out by the individual applying for it. N.H. RSA 657:6. Failure to comply with absentee voting laws may result in a cease and desist order, enforcement action, and/or criminal prosecution.

Should you have any questions, please do not hesitate to contact me.

Sincerely,


Nicholas A. Chong Yen
Assistant Attorney General

000063

Page 2 of 2

Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Greenland Town Clerk

000064

Events Note to File

██████████ Wrongful
Voting

2018132731 5/21/2019 Note to File
2:24 PM

This matter will be closed as unfounded due to election official error.

In arriving at this determination, our office obtained elections documents from Hudson, NH in addition to speaking with ██████████ himself.

As evidenced from the voter checklist, there are a total of six voters with the last name "██████████." Among them is an ██████████ as well as a ██████████. Investigator Richard Tracy learned that ██████████ is 64 years old and is ██████████'s father. The two names checked off on the list are ██████████ and his mother, ██████████: 57 years old.

In speaking with ██████████, he said that he was living in Leominster, MA during the 2016 elections. He also confirmed that his father had voted in Hudson, NH during that election.

As a result, it appears ██████████ was checked off in error, when his father in fact was the one who voted in NH. The Town of Hudson was notified that ██████████ no longer lives in Hudson and his name will be removed from the checklist.

Based on the forgoing this matter is now closed.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE F. YOUNG
DEPUTY ATTORNEY GENERAL

May 22, 2019

Emily Sandblade



Re: CEASE AND DESIST ORDER
Warning for violation of RSA 666:6

Dear Ms. Sandblade:

On August 27, 2018, this office was notified of a complaint from David Pierce about a political advertisement that did not identify who was responsible for it.

In reviewing this complaint, Chief Investigator Richard Tracy obtained a copy of the advertisement in question and spoke with the individuals listed on the advertisement to include, Representative Barbara Griffin, Representative Michael Gunski, Representative Joe Alexander, Representative Fred Plett, and yourself.

In speaking with Investigator Tracy, you admitted that you printed the flyers on your own computer. You did not inform Investigator Tracy that the candidates on the advertisement authorized the use of their respective names on said ad. In addition, all the other representatives Investigator Tracy spoke to indicated that they did not participate in the planning or creation of the advertisement. The representatives also did not indicate that they gave you permission to publish this advertisement or otherwise paid for its creation.

In New Hampshire, it is a criminal misdemeanor offense to "falsely represent that any other has written [a] letter or document, knowing such representation to be false, for the purpose of influencing votes, or who shall by false representation, use, employ or assign the name of any other person to signify endorsement of a political party, candidates or programs." N.H. RSA 666:6.

The evidence in this case indicates that you alone were responsible for the planning, creation, and implementation of the advertisements. The evidence also shows that you published

000066

Goffstown Alleged Illegal Campaign Activity
Page 2 of 2

this advertisement without the permission of the candidates. However, in spite of this, the advertisement represented that it was "Paid for by the individual candidates campaigns." The combination of the candidates' names and the aforementioned disclaimer at the bottom of the advertisement created a misrepresentation that the candidates endorsed or took part in the creation of the advertisement. As a result, we have concluded that this advertisement violated N.H. RSA 666:6 – False Documents, Names or Endorsement.

Pursuant to RSA 666:6 and based upon the investigation conducted by our office, you are hereby ordered to **Cease and Desist from further publishing advertisements that falsely represent a candidate's endorsement of the advertisement and/or a candidate's participation in the advertisement's creation.** Failure to comply with this Cease and Desist Order may result in this office pursuing criminal prosecution or civil penalties.

Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: David Pierce

000067

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 22, 2019

Paul Raymond Whipple
[REDACTED]

Re: Alleged Illegal Campaign Activity

Dear Mr. Whipple:

On May 9, 2019, Chief Investigator Richard Tracy spoke with you about your complaint involving a mailer as well as signage along Route 10, both of which did not identify who was responsible for them. After careful review, we have found no violation of New Hampshire election laws.

In reaching this determination, we reviewed the documents and images accompanying your complaint and spoke with [REDACTED]

RSA 664:2, VI defines "political advertising" as "any communication, including buttons or printed material attached to motor vehicles, which expressly or implicitly advocates the success or defeat of any party, measure or person at any election."

RSA 664:14 requires all political advertising to be signed at the beginning and end with the name and address of the person or entity responsible for it.

With respect to implicit advocacy, as referenced in RSA 664:2 and implemented through RSA 664:14, the United States District Court for New Hampshire held that the term "implicitly" was unconstitutional. Stenson v. McLaughlin, No. CIV. 00-514-JD. 2001 WL 1033614, at *7 (D.N.H. Aug. 24, 2001). As a result, the Court struck the term "implicitly" from RSA 664:2, VI and prohibited its use when enforcing RSA 664:14.

Consequently, in this case, the blue mailer does not expressly advocate the success or defeat of the warrant article regarding the police department. Instead, the mailer is an informational communication, which attempts to make voters aware of the impending vote.

000068

Croydon Alleged Illegal Campaign Activity
Page 2 of 2

With respect to the signs along Route 10, these do not constitute political advertisements. The signs depicting "Keep Newport Police out of Croydon", "Richard Lee is Croydon's Devoted Top Cop", and "Vote on Article 1 is Binding," are similar to the blue mailer, in that they do not expressly advocate from the success or defeat of the warrant article. Nor do the signs attempt to explicitly tell the voters to vote one way or the other.

Based on the forgoing, we conclude that there was no violation of New Hampshire Election Laws. At this time, the matter is now closed.

Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 23, 2019

Amy Finkelstein
[REDACTED]

Re: Absentee Voting Complaint

Dear Ms. Finkelstein:

On November 6, 2018, we received a complaint regarding your son, Zach Finkelstein's absentee ballot. The complaint alleged that you delivered Zach's absentee ballot to the assistant city clerk, without the original envelope.

In following up on this complaint, we received a written statement from the assistant clerk that accepted your ballot and reviewed the information you shared with Chief Investigator Tracy.

On May 23, 2019, you informed Investigator Tracy that your son filled out his own absentee ballot, but asked that your deliver it for him because he would be in Canada on the day of the election for school. You then indicated that you delivered Zach's completed absentee ballot to the City Clerk's Office.

A voter's spouse, parent, sibling, or child may, before election day, hand deliver an absentee ballot to the town or city clerk's office or, on election day, to the town, city, or ward clerk at the polling place, as late as 5:00PM, provided the family member presents personal identification and signs an Absentee Ballot Return Form. N.H. RSA 657:17.

The voter must fill out the absentee ballot himself/herself, which then must be sealed inside an affidavit envelope that is signed by the voter. N.H. RSA 657:17. The envelope containing the completed ballot must then be placed inside the return envelope, which is also endorsed by the voter with his or her name, address, and voting place. N.H. RSA 657:17. Please note, both envelopes are provided to the voter after his/her properly executed absentee application is received by the city clerk and processed.

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Nashua Absentee Voting Complaint
Page 2 of 2

We hope this information will be helpful to you in the future. At this time, the matter is now closed. Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Patricia Picuch, City of Nashua City Clerk

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 23, 2019

Peter Rice



Re: Town of New Castle Alleged Illegal Campaign Activity

Dear Mr. Rice:

On May 13, 2019, we received a complaint of a mailer that had been sent to New Castle residents, asking them to vote in favor of a budget increase for the New Castle Fire Department. The mailer did not contain the identity or contact information of the individuals or entity responsible for it.

In following up on this complaint, Chief Investigator Tracy contacted the New Castle Post Office and learned that you had paid for the mailer's postage. On May 22, 2019, Investigator Tracy spoke with you about the mailer. During the conversation, you admitted that you and approximately 3 or 4 other New Castle Fire Department members were responsible for the creation of, payment for, and sending of the mailer.

Please be advised, New Hampshire RSA 664:14 requires all political advertising to be signed at the beginning or the end with the name and address of the individuals or entity who is responsible for it.


We hope this information will assist you if you decide to publish additional political advertisements in the future. Failure to comply with the notification requirements of RSA 664:14 may result in a cease and desist letter or further enforcement action.

Please feel free to contact me if you have any questions.

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New Castle Alleged Illegal Campaign Activity
Page 2 of 2

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Keriann Roman, Town of New Castle Town Counsel

Events Note to File

████████████████████ Wrongful 2018132752 5/23/2019 Note to File
Voting 3:44 PM

This matter is now closed as unfounded.

This matter was referred to this office through the Crosscheck program.

Chief Investigator Tracy found that there is a ██████████ (35 years old) and a ██████████ (70 years old). After reviewing the NH voting history of ██████████ Investigator Tracy learned that he has ██████████ consistently voted since 2006. Similarly, ██████████ (65 years old) has a similar voting history. ██████████ on the other hand, does not appear to have voted in NH.

Investigator Tracy contacted the Milton Town Clerk and learned that ██████████ and ██████████ are married. Investigator Tracy spoke with the Milton Supervisor of the Checklist and shared that ██████████ seems to have the same voting history as ██████████ while ██████████ has no voting history at all. The Supervisor said that this was likely a mistake.

Colleen McCormack with HAVA contacted Investigator Tracy and indicated that she is helping Milton correct this discrepancy.

Based on the forgoing, this matter is likely an issue stemming from election official error. No further action will be taken and this matter is now closed.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

May 30, 2019

Thomas Tardif
[REDACTED]

Re: City of Laconia

Dear Mr. Tardif:

On May 8, 2019, we received your complaint regarding the City of Laconia and its planned adoption of N.H. RSA 31:95-b -- Appropriation for Funds Made Available during Year. In your complaint, you allege the intent of the City Manager and Staff is to delete public hearings as well as notices associated with appropriations of \$10,000.00 or less, after the annual budget has been adopted. For the reasons set out below, this office concludes the process to adopt RSA 31:95-b and amend Laconia's charter is lawful.

On March 27, 2019, this office was contacted by counsel for the City of Laconia, Attorney Jae Whitelaw. Attorney Whitelaw consulted with this office about the proper procedure to adopt RSA 31:95-b. Attorney Whitelaw also inquired about how best to reconcile the potential conflict between RSA 31:95-b and the City's Charter. Specifically, Section 5:06, which prohibits any appropriation after the annual budget is adopted unless voted by a two-thirds majority of the Council after a public hearing held to discuss said appropriation.

In speaking with Attorney Whitelaw, this office indicated that if Laconia chose to adopt RSA 31:95-b, the process to do so was outlined under the statute. Additionally, this office informed Attorney Whitelaw that if the City chose to adopt RSA 31:95-b, it would then have to amend its Charter before invoking the statute, pursuant to the process outlined under RSA 49-B:4-a and 49-B:5.

RSA 31:95-b states that at an annual meeting, any town or city "may adopt an article authorizing, indefinitely until specific rescission of such authority, the board of selectmen or board of commissioners to apply for, accept and expend, without further action by the town or village district meeting, unanticipated money from the state, federal or other governmental unit or a private source which becomes available during the fiscal year." The statute further imposes a procedure by which it can be adopted.

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Thomas Tardiff
Page 2 of 2

First, the city must notify the voters of the warrant article using specific language from the statute, which describes the provisions of RSA 31:95-b, and asks the voters if they want to accept those provisions. Next, if a majority of voters vote in favor of adopting the warrant article, it shall be in affect according to the terms of the voted upon article, until such time as the town or city votes to rescind its vote. RSA 31:95-b, I(b). Consequently, there is a process in place by which voters may choose to support or reject the adoption of RSA 31:95-b.

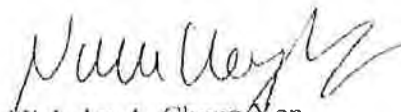
Following the adoption of RSA 31:95-b, the town or city is still subject to appropriation requirements as set forth under this statute. For unanticipated moneys in the amount of \$10,000.00 or more, a public hearing must be held before the action is taken. RSA 31:95-b, III(a). Additionally, notice must be posted of the time, place, and subject of such a hearing in a newspaper of general circulation at least 7 days before the hearing is held. RSA 31:95-b, III(a). For unanticipated funds less than \$10,000.00, notice is similarly provided to the voters in the agenda of the selectboard. RSA 31:95-b, III(b). Furthermore, the acceptance of unanticipated moneys must be made during the public session of any regular selectboard meeting. RSA 31:95-b, III(b). As such, RSA 31:95-b still requires the town or city to ensure it notifies its voters of an appropriation as well as provide an opportunity for voters to weigh in on that appropriation.

With respect to the charter amendment process, the City will be required to submit a proposed amendment to a public hearing according to RSA 49-B:5. This statute further requires notice be published in a newspaper of general circulation at least 7 days prior to the hearing and include the proposed amendment and a brief explanation. RSA 49-B:5, I. Similar to the adoption of RSA 31:95-b, the public will have an opportunity to voice their support for or rejection of this charter amendment.

Based on the foregoing, it is this office's conclusion that this process to adopt RSA 31:95-b and amend the Laconia charter is lawful.

Please feel free to contact me if you have any questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: David Scanlan, Deputy Secretary of State
Naomi Butterfield, City of Laconia Counsel

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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

ORDON J. MACDONALD
ATTORNEY GENERAL

JANE E. YOUNG
DEPUTY ATTORNEY GENERAL



June 3, 2019

The Honorable Katherine Prudhomme-O'Brien
[REDACTED]

The Honorable Dennis Green
[REDACTED]

The Honorable Mark Pearson
[REDACTED]

Re: Hampstead School Board Investigation

Dear Representative Prudhomme-O'Brien, Representative Green, and Representative Pearson:

On May 4, 2019, you informed this office of a flyer that had been mailed in Hampstead regarding the March 2019 Hampstead Town Election and the school improvement bond. You expressed concern about the flyer stating the incorrect date of the election. You alleged the flyer lacked the required information as to who was responsible for it. After careful review, we have concluded there was no violation of New Hampshire's election laws.

In reaching this determination, we met with you, obtained a copy of the flyer at issue, identified the owner of the postage permit on the flyer as Alan Labranche, spoke with Alan Labranche -- owner of the Loral Press -- who indicated that he printed the flyer for the Hampstead School Board, reviewed the website listed on the flyer, and spoke with Attorney Dean Eggert, counsel for the Hampstead School Board.

RSA 664:14 requires all political advertising include the name and address of the individuals or entities responsible for it. RSA 664:2, VI defines political advertising as any communication, including buttons or printed material attached to motor vehicles, which expressly or implicitly advocates the success or defeat of any party, measure or person at any election.

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With respect to implicit advocacy, as referenced in RSA 664:2 and implemented through RSA 664:14, the United States District Court for New Hampshire held that the term "implicitly" was unconstitutional. Stenson v. McLaughlin, No. CIV. 00-514-JD, 2001 WL 1033614, at *7 (D.N.H. Aug. 24, 2001). As a result, the Court struck the term "implicitly" from RSA 664:2, VI and prohibited its use when enforcing RSA 664:14.

In this matter, Investigator Tracy spoke with Mr. Labranche who confirmed that he printed the flyers for the Hampstead School Board. Investigator Tracy also spoke with Attorney Eggert, who further confirmed that the flyers were printed by the Hampstead School Board. However, the flyer in this matter does not constitute a "political advertisement" pursuant to RSA 664:14 because it does not expressly advocate for the success or defeat of the warrant article. Instead, it identifies the cost of the bond article, impact on taxpayers' bills, and how the bond may impact the school facility. Because the flyer does not expressly advocate for voters to vote in favor of or against the warrant article, as outlined above, this office cannot enforce penalties under RSA 664:14 for "implicit advocacy." Consequently, we conclude that this flyer was not subject to the identification requirements under RSA 664:14.

With respect to the election date error on the flyer, through the course of this office's investigation, we have found no evidence of criminal intent. In speaking with Attorney Eggert, we understand this was a printing error, which the Hampstead School Board took immediate corrective to rectify. This action included:

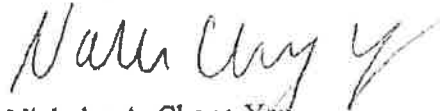
- Sending a corrective notice as to the voting date through the school messenger mail system;
- Using a robocall system to send out a corrective message as to the voting date;
- Making a corrective announcement through the District and SAU websites;
- Issuing a corrective notice through the cable access channel for the District (Channel 6);
- Posting a corrective notice at the Town Offices;
- Posting a corrective notice at the Town Library; and
- Posting a corrective notice at other highly trafficked locations in Town.

Furthermore, during the deliberative session of the Hampstead School District, both the meeting minutes and the meeting recording indicate that School Board announced the correct date of the voting session. The Hampstead School District's 2019 Annual Meeting and Election Calendar similarly lists the correct election date. Communications such as this should be clear and accurate. However, mistakes do occur. In this instance, officials took appropriate steps to correct the printing error.

Based on the foregoing, we conclude that this matter does not present any violation of New Hampshire's election laws.

Please feel free to contact me if you have any further questions.

Sincerely,



Nicholas A. Chong Yeu
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Town of Hampstead School Board
Attorney Dean B. Eggert, Counsel for Hampstead School Board

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

RIDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 13, 2019

Nancy Houghton
Supervisor of the Checklist
Town of Charlestown
PO Box 385
Charlestown, NH 03603

Re: Voter Assistance

Dear Supervisor Houghton:

After the November 6, 2018 General Election, you contacted this Office with questions regarding [REDACTED] and [REDACTED] voter registration. As a result of your contact, we conducted an inquiry into your questions.

As a Supervisor of the Checklist, it is your responsibility, under RSA 654, to register voters and, through a majority of the Supervisors, to determine if individuals are qualified to vote in New Hampshire. In accordance with that responsibility, you administer oaths to potential voters confirming that they are qualified to vote. Our investigator, Richard Tracy, spoke with you to determine your questions and to discuss the events of November 6, 2018, as they related to the [REDACTED]. You also raised questions about RSA 659:20 and the oaths for a voter who needs assistance in voting.

As part of our inquiry, [REDACTED] was also contacted by Investigator Tracy, who asked her to explain the communication system that she uses with [REDACTED] in order to see if an election official could determine if [REDACTED] understood and agreed with the voter registration oath and the RSA 659:20 oath. [REDACTED] explained the communication system she uses and, after that discussion, Investigator Tracy recommended that the matter be closed with an informational letter to the [REDACTED] and a guidance letter to the election officials in the Town of Charlestown regarding administering the oaths under RSA 659:20 and the voter registration oath.

The Charlestown election officials correctly registered [REDACTED] to vote during the November 6, 2018 General Election and [REDACTED] was able to cast his ballot during that election. From now on, [REDACTED] will only have to use the RSA 659:20 voter assistance oath. We would like

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to take an opportunity to review the proper procedures for administering the voter registration oath and the voter assistance oath.

Please be advised that the Supervisors of the Checklist have no responsibility with respect to the voter assistance oath under RSA 659:20; they only give the voter registration oath under RSA 654:7. However, as this letter is also being provided to the Town Moderator, we are including information regarding the voter assistance oath as well.

Voter Assistance Oath

RSA 659:20 states:

Any voter who declares to the moderator under oath that said voter needs assistance marking his or her ballot shall, upon the voter's choice and request after the moderator has informed the voter of the accessible voting options that are available at the polling place, receive the assistance of one or both of the inspectors of election detailed for that purpose by the moderator or of a person of the voter's choice provided that the person is not the voter's employer or union official. Such person so assisting shall be sworn, shall mark the ballot as directed by said voter, and shall thereafter give no information regarding the same. Such person so assisting shall leave the space within the guardrail with the voter.

Pursuant to RSA 659:20, whenever a voter requires assistance in voting, that person and the person providing assistance are required to acknowledge the oaths contained in RSA 659:20. The applicable oaths to RSA 659:20 is located in the 2018-2019 Election Procedural Manual on page 195. It provides:

Oath of Individual Registered Voter Requiring Assistance in Voting
Pursuant to RSA 659:20

I, _____, do solemnly swear (or affirm) that I am
unable to mark a ballot and require assistance in voting. See RSA 659:20

Oath of Individual Providing Assistance to an Individual Registered Voter
Pursuant to RSA 659:20

I, _____, do solemnly swear (or affirm) that in
providing assistance to _____, (voter), I shall mark
the ballot as directed by him/her and will not unduly influence his/her
decision with respect to selecting any candidate or issue presented on the
ballot and that I shall thereafter give no information regarding same. See
RSA 659:20

The Moderator, or an election official appointed by the Moderator, administers the RSA 659:20 oaths. In administering the RSA 659:20 oaths, the election official should determine with

a reasonable level of certainty that the person requesting assistance and the person providing assistance understand and agree to the oaths. In some circumstances, the election official may not be able to determine whether the person requesting assistance agrees to the RSA 659:20 oath due to a communication barrier, but the person providing assistance can communicate with the person requesting assistance and understand his/her response. In that circumstance, the election official shall request that the person providing assistance explain and, to the extent necessary, demonstrate the method of communication that he/she uses with the person requesting assistance. This demonstration will permit the election official to engage in using the same method of communication to take the RSA 659:20 oath of the person requesting assistance.

For example, if the person requesting assistance has mobility and verbal limitations and communicates by blinking his eyes, answering "yes" by blinking once, and answering "no" by blinking twice, then by knowing and using this means of communication, the election official can ask the person requesting assistance to take the RSA 659:20 voter assistance oath. However, if the election official cannot ascertain that the person seeking assistance can take the oath through the explained and/or demonstrated means of communication, then the person requesting assistance has not successfully agreed to the RSA 659:20 oath and is not permitted to receive assistance. Similarly, if the person who is seeking assistance to vote has a disability which does not allow that person to communicate through any means, then there is no method for that person to take the required oath, and the person is not permitted to receive assistance.

Voter Registration Oath

The Supervisors of the Checklist, or any other person they designate under RSA 654:7, III, shall take the oaths of individuals registering to vote on election day. The qualifications to register to vote in New Hampshire, explained in RSA 654:7, are that each person registering shall be:

1. At least 18 years old on the day of the next election;
2. A United States citizen; and
3. Domiciled in the town or city in which the applicant is register to vote and not otherwise disqualified to vote.

Similarly to the RSA 659:20 voter assistance oath, Supervisors of the Checklist are required to confirm that a potential voter can acknowledge that he or she understands the oath on the voter registration form and agrees to that oath. The same process should be used as explained above for Moderators in giving the RSA 659:20 voter assistance oath.

Other than the RSA 659:20 voter assistance oath and the voter registration oath, there is no other provision under New Hampshire law that permits an election official to complete any type of evaluation of a potential voter or a registered voter prior to permitting that person to receive a ballot and to receive assistance in voting.

Accessible Voting Machine

Any voter in Charlestown may use the accessible voting machine or the accessible voting booth to vote. There should be no limitations on the use of that equipment or space. While it is very useful equipment for individuals who have visual disabilities, it is also useful for all other voters. Additionally, the size of the accessible voting booth often better accommodates multiple voters such as voters who request assistance and their assistants, or seniors or individuals with mobility disabilities who use wheelchairs or may need to be seated while voting.

Finally, if any Charlestown election official has any questions regarding registering a voter or allowing a registered voter to vote, they should always call either the Attorney General's Office or the Secretary of State's Office to discuss the situation before refusing to register a voter or denying a voter the right to vote.

Thank you for your attention to this matter. Please feel free to contact me if you have any further questions.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: Gabriel St. Pierre, Moderator, Town of Charlestown
Patricia Chaffee, Town Clerk, Town of Charlestown

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 20, 2019

Brenda Dulong
Deputy Town Clerk/Tax Collector
Town of Merrimack
6 Baboosic Lake Road
Merrimack, NH 03054

Re: Town of Merrimack Voter Checklist


Dear Deputy Dulong:

On November 6, 2018, we were contacted by [REDACTED] with a concern that her name was already checked off as having voted before her arrival at the polling location. As a result of this contact, we conducted an inquiry and concluded that the Town of Merrimack's election officials correctly allowed [REDACTED] to vote. We would like to take an opportunity to briefly review the proper approach to checking voters off on the checklist.

According to the Election Procedure Manual, after the voter is allowed into the area within the guardrail to vote, the ballot clerk must give the voter the appropriate ballot(s). Next, the ballot clerk must use a ruler or straight edge to mark the checklist with a single thin line through the last name to indicate the voter has obtained his or her ballot. (See Pg. 56 of the Election Procedure Manual: 2018-2019).

We appreciate your assistance as this Office followed-up on this concern. Please feel free to contact us if you have any further questions.

Sincerely,


Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

cc: [REDACTED]

000084

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 25, 2019

The Honorable Stephen Shurtleff
Speaker of the House
107 North State Street
Concord, NH 03301

Re: Coordinated Inauthentic Emails to Legislators

Dear Speaker Shurtleff:

On October 1, 2018, we received your complaint involving several emails that were sent to legislators claiming to be authored by university or college students. After review, we have concluded that there has been no violation of New Hampshire's election laws.

In investigating this complaint, we reviewed each of the emails received by the recipient legislators, attempted to contact one of the purported senders, and spoke with Chief of Staff Eileen Kelly.

We were unsuccessful in our attempt to contact one of the senders. Additionally, Chief of Staff Kelly informed us that since the initial batch of emails were received by legislators, there may have been a handful of additional, identical emails that were sent from this unknown sender or senders. However, since that time, Chief of Staff Kelly indicated that she has not received any further notice of additional emails being sent.

This Office contacted the Federal Bureau of Investigation through its local office in New Hampshire. The FBI informed Chief Investigator Richard Tracy that it had not received any notice of the situation from any legislators or recipients. Based on the information shared by Investigator Tracy, the FBI did not believe there to be a violation of any federal statute.

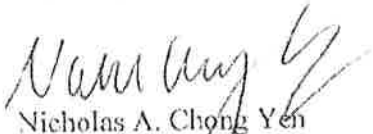
Similarly, in light of the information obtained during the course of this investigation there is no evidence to support a criminal prosecution. This is because the emails do not exhibit any criminal conduct. While the number of emails sent and the inauthentic email addresses used may be suspicious, on their face, the emails are a poor attempt to solicit a comment from a legislator. As such, no further enforcement action will be taken and this matter is now closed.

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Coordinated Inauthentic Emails to Legislators
Page 2 of 2

If the emails are sent again or you experience a similar situation, or have any other questions, please do not hesitate to contact me.

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

000086

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 25, 2019

James R. Howard
[REDACTED]

Re: Americans for Prosperity NH Campaign Finance Complaint

Dear Mr. Howard:

Assistant Attorney General Nicholas Chong Yen forwarded your letter of June 13, 2019 to me for review.

I have reviewed all the materials in this case, discussed this matter with AAG Chong Yen and concur with his conclusions contained in his letter to you dated May 15, 2019.

Your June 13th letter requests an appeal from AAG Chong Yen's conclusions regarding your complaint. While I am certainly willing to discuss this further with you, the Department of Justice (DOJ) is a law enforcement agency with responsibilities to enforce the law and bring appropriate criminal or civil enforcement actions. Prosecutorial decisions by attorneys at the DOJ are not the subject of appeals under RSA 541:6. In this case, you asked this office to review certain conduct by Americans for Prosperity to determine if this office found any basis to bring an enforcement action. As AAG Chong Yen explained in detail in his May 15th letter, we conducted a full review in light of existing law, and found no actionable violations of New Hampshire law.

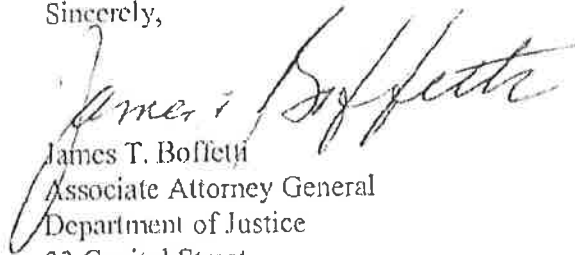
With respect to your reference to implicit advocacy, as identified under RSA 664:2, the United States District Court for New Hampshire held that the term "implicitly" is unconstitutional. Stenson v. McLaughlin, No. CIV. 00-514-JD, 2001 WL 1033614, at *7 (D.N.H. Aug. 24, 2001). As a result, the Court struck the term "implicitly" from RSA 664:2, VI.

Consequently, we cannot apply the term "implicitly" when enforcing RSA 664:2, VI.

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Letter to James R. Howard
Page 2 of 2

Sincerely,

A handwritten signature in cursive script that reads "James T. Boffetti". The signature is written in dark ink and is positioned above the printed name and title.

James T. Boffetti
Associate Attorney General
Department of Justice
33 Capitol Street
Concord, New Hampshire 03301
603-271-0302

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ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 26, 2019

Edward Naile
Coalition of NH Taxpayers



Re: Voter Fraud Allegation

Dear Mr. Naile:

On November 19, 2018, we received your complaint from the U.S. Attorney's Office regarding alleged voter fraud in New Hampshire. Among the several names referenced in your complaint, you alleged that [REDACTED] committed voter fraud. After careful review, we conclude there has been no violation of New Hampshire's election laws.

In following-up on this complaint, we examined the information that accompanied your complaint, obtained records from New Hampshire's ElectionNet, examined [REDACTED]'s election history in New Hampshire, contacted the election office in Montgomery County, Pennsylvania, and reviewed [REDACTED]'s voting history from Pennsylvania.

The Montgomery County election office confirmed that the last time [REDACTED] voted in Pennsylvania was on May 19, 2015. [REDACTED] registered to vote in New Hampshire on September 8, 2015. His voting history in New Hampshire shows that he first voted in this state on February 9, 2016. As such, it is clear that at no point has [REDACTED] voting history between New Hampshire and Pennsylvania overlapped.

This information, combined with [REDACTED] having obtained a New Hampshire's Driver's License on October 10, 2015 demonstrates an intent to remain in New Hampshire.


Consequently, for the foregoing reasons, this Office concludes that [REDACTED] has not violated New Hampshire's election laws. This matter is now closed.

Please feel free to contact me if you have any other questions.

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Voter Fraud Allegation
Page 2 of 2

Sincerely,



Nicholas A. Chong Yen
Assistant Attorney General
Election Law Unit
(603) 271-3650
nicholas.chongyen@doj.nh.gov

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

38 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

June 27, 2019

Eric Melin
[REDACTED]

Re: Eric Melin Wrongful Voting Complaint

Dear Mr. Melin:

On November 6, 2018, we received a complaint alleging that you attempted to vote using a commercial property address as your domicile.

This Office contacted you on November 6, 2018, and during the discussion, you admitted that the address you provided to election officials was a commercial address.

In New Hampshire, in order to vote in a town, ward, or unincorporated place you must be domiciled there. A "domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1, 1 (emphasis added). A "voter can only have one domicile for voting purposes." RSA 654:2 I. (emphasis added).

While you did not ultimately vote or submit a domicile affidavit, please be advised that it is misdemeanor to knowingly make a false material statement regarding your qualifications as a voter on a voter registration form. N.H. RSA 659:34, I(a). Additionally it is a felony to vote for any office or measure at an election if such person is not qualified to vote as provided in RSA 654. N.H. RSA 659:34, I(e).

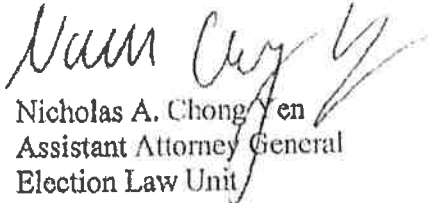
Any failure to comply with these laws may result in a cease and desist order or further enforcement action. At this time, this matter is now closed.

We hope this information will be useful to you in future elections. Should you have any questions, please do not hesitate to contact me.

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Sincerely,



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cc: Melanie McGrail, Town of Stratham Supervisor of the Checklist

FROM: The State of New Hampshire
Department of Justice
33 Capitol Street
Concord New Hampshire 03301-6397

TO: Honorable David Cote
Legislative Office Building
107 North Main Street, Room 308
Concord, NH 03301