

BEFORE THE VOTER REGISTRATION COMMISSION

IN THE MATTER OF)
JOEL MILLER,)
 Linn County Auditor,)
 COMPLAINANT,)
)
 And)
)
PAUL PATE,)
 State Commissioner of Elections,)
 RESPONDENT.)

CASE NO. 2019-01



NOTICE OF HEARING AND STATEMENT OF CHARGES

COMES NOW the Voter Registration Commission (VRC) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 47.1(5) and 47.8(5) and administrative rules in 721 IAC Chapter 25.

Hearing. A contested case hearing shall be held on December 9, 2019, before the VRC. The hearing shall begin at 10:00 a.m. and shall be located in the Lucas State Office Building, 1st Floor Conference Room, Iowa Secretary of State's office, Des Moines, Iowa 50319.

Answer. Within ten days of the date of service of this Notice of Hearing and Statement of Charges, pursuant to rule 721—25.6(1) the Respondent is required to file an answer to the allegations. The answer shall contain all of the information required by rule 721—25.6.

Presiding Officer. The VRC shall serve as presiding officer with the following caveats:

1. Heidi Burhans, who is the State Commissioner of Elections' appointee to the VRC, has abstained from the proceedings pursuant to Iowa Code section 47.8(5) and will not participate in this matter as a presiding officer.
2. W. Charles Smithson has been directed by the VRC to receive all filings and to handle pretrial matters in this proceeding. All filings in this matter should be directed to him at: 25smithson@gmail.com

Hearing Procedures. The procedural rules governing the conduct of the hearing are found in Iowa Administrative Code 721 Chapter 25. At hearing, the parties may appear personally or be represented by counsel at their own expense. Both parties will be afforded the opportunity to respond to the charges and other filings, produce evidence on issues of material fact, cross-examine witnesses present at the hearing, and

examine and respond to any documents introduced at hearing. The Complainant is responsible for proving by a preponderance of the evidence that a violation occurred. The general hearing procedures are found in rule 721—25.23 and the procedures on the introduction of evidence are found in rule 721—25.24. If either party needs to request an alternative time or date for hearing, the process for a continuance is set out in rule 721—25.20. The hearing is open to the public.

Communication. No communication shall be made to the VRC prior to the hearing except to W. Charles Smithson and with notice to the other party.


Jurisdiction. The VRC has jurisdiction in this matter pursuant to Iowa Code sections 47.1(5) and 47.8(5) and administrative rules in 721 IAC Chapter 25.

Legal Authority. If any of the allegations against the Respondent is founded by a preponderance of the evidence, the VRC has authority to take any actions as set out in rule 25.9(2).

Default. If either party fails to appear at hearing, the VRC may enter a default decision or proceed with the hearing and render a decision pursuant to rule 721—25.25.

Settlement. Informal settlement is set out in rule 721—25.5. W. Charles Smithson is authorized by the VRC to oversee settlement discussions

Statutes Involved and Factual Circumstances. The Complainant is the Linn County Auditor and thus serves as a County Commissioner of Elections. The Respondent is the Secretary of State and thus serves as the State Commissioner of Elections. The Complainant has alleged that the Respondent committed a violation of the Help America Vote Act (HAVA). The complaint is attached and incorporated in this filing herein.


W. Charles Smithson,
Member and on behalf of Voter
Registration Commission

CERTIFICATE OF SERVICE

The above signed hereby certifies under penalty of perjury that this Notice of Hearing and Statement of Charges was sent by electronic mail on November 6, 2019, to:

Matt Gannon on behalf of Respondent
Joel Miller as the Complainant