

DEC 13 2007

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
ENFORCEMENT
COMMISSION

In the Matter of a Complaint by
Christopher Healy, Wethersfield

File Nos. 2007-201 & 202

**AGREEMENT CONTAINING CONSENT ORDER AND PAYMENT OF RESTITUTION
FOR VIOLATIONS OF CONNECTICUT GENERAL STATUTES §9-610(d)(2)**

This agreement by and between Eddie A. Perez (hereinafter referred to as the Respondent) and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177 (c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Respondent is the incumbent Mayor of the City of Hartford. He sought and won re-election in the November 6, 2007 municipal election, having sought and received the Democratic Party nomination for Mayor in the September 11, 2007 primary.
2. Complainant filed two separate complaints alleging that Respondent used City of Hartford public funds to produce and disseminate a publication entitled *The Hartford Educator* as an insert in the April 4, 2007 edition of *The Hartford Courant*, as well as an advertisement promoting the 311 phone system in March 2007 editions of *The Hartford News*, both of which featured the name and face of the Respondent.
3. Connecticut General Statutes §9-610(d) provides:
 - (1) No incumbent holding office shall, during the three months preceding an election in which he is a candidate for reelection or election to another office, use public funds to mail or print flyers or other promotional materials intended to bring about his election or reelection.
 - (2) No official or employee of the state or a political subdivision of the state shall authorize the use of **public funds** for a television, radio, movie theater, billboard, bus poster, **newspaper** or magazine promotional campaign or advertisement, which (A) features **the name, face or voice of a candidate for public office**, or (B) promotes the nomination or election of a candidate for public office, **during the twelve-month period preceding the election** being held for the office which the candidate described in this subdivision is seeking. [Emphasis added.]
4. *The Hartford Educator* (a bilingual Hartford Public Schools newsletter) was disseminated by Respondent's staff via Hartford's twenty four thousand (24,000) school children and City staff on or about April 3, 2007. In addition, nine thousand one hundred forty (9,140) copies of *The Hartford Educator* appeared as a supplement in the April 4, 2007 edition of the *Hartford Courant*. The Respondent's face was featured in five (5) photographs in the newsletter and his name recurred fourteen (14) times.

5. The City of Hartford ordered fifty thousand (50,000) copies of *The Hartford Educator*. A total of nine thousand one hundred forty (9,140) copies of *The Hartford Educator* were placed by Respondent's staff for distribution in *The Hartford Courant*. The cost for insertion of the newsletters into *The Hartford Courant* was six hundred thirty-nine dollars and eighty cents (\$639.80), which was paid for with public funds by the City of Hartford.
6. The 311 phone system advertisement appeared four (4) times in four (4) separate editions of *The Hartford News* (a local Hartford area weekly newspaper) during the weeks of March 7, March 14, March 21, & March 28, 2007. Each distribution contained a Spanish and English version of the 311 phone system in the same edition. The English version of the advertisement featured the name and face of Respondent; however, the Spanish version did not. The 311 phone system was designed to "report, track and resolve problems or issues people may have with city services." Each advertisement cost fifty dollars (\$50.00) for a total of two hundred dollars (\$200.00), which was paid with public funds by the City of Hartford.
7. Connecticut General Statutes §9-610(d)(2), formerly § 9-333l(d)(2), established a bright line rule. If, within five months of an election, a candidate is featured in a newspaper promotional campaign or advertisement authorized to be paid for with public funds, the appearance constitutes a violation of the statute.
8. However, October 25 Special Session Public Act 05-5 amended subsection (d) of 9-610, by changing "five-month" to "twelve-month" in subdivision (2), effective January 1, 2006, and applicable to elections held on or after that date.
9. There is evidence in this matter that Respondent's staff sought, through its own efforts, including contacting the Commission's staff, to ascertain and comply with the requirements of Conn. Gen. Stat. § 9-610(d), but mistakenly believed that the applicable period was five (5), not twelve (12) months prior to the election. Respondent's staff maintains that they checked the Commission's website to verify that the distribution of *The Hartford Educator* in *The Hartford Courant* and the placement of the 311 advertisements in *The Hartford News* were in compliance with prevailing law, and that on such occasions the website had not been updated to reflect the change in law set forth in paragraph 8, above, and still referenced the five (5) month prohibition. The Commission could not verify the specific claim regarding the website, but found other affirmative efforts were made to comply with the law as Respondent's staff understood it to be.
10. Distribution of *The Hartford Educator* and the 311 Phone System advertisements appeared in newspapers and occurred within the twelve (12) month period but more than five months prior to the November 6, 2007 municipal election, in which the Respondent was a candidate, and Respondent's name and face appear multiple times throughout *The Hartford Educator* and the 311 Phone System advertisement, as described in paragraphs, 4, 5 and 6, above.
11. It is concluded that by distributing *The Hartford Educator* newsletter, which distribution was paid for with public funds and featured the Respondent's name and face, as an insert in the April 4, 2007 edition of *The Hartford Courant* newspaper within the twelve (12) months but

more than five (5) months preceding the November 6, 2007 municipal election in the City of Hartford, in which Respondent was a candidate, Respondent, through his staff, violated Connecticut General Statutes § 9-610(d)(2).

12. It is similarly concluded that by placing an advertisement promoting the 311 Phone System in *The Hartford News* newspaper, which was paid for with public funds and featured the Respondent's name and face, during the weeks of March 7, March 14, March 21, & March 28 of 2007, within twelve (12) months but more than five (5) months preceding the November 6, 2007 municipal election in the City of Hartford, in which Respondent was a candidate, the Respondent, through his staff, violated Connecticut General Statutes § 9-610(d)(2).
13. The total cost of distribution and insertion in *the Hartford Courant* and the advertisement in *The Hartford News* paid with public funds was eight hundred thirty-nine dollars and eighty cents (\$839.80). There were other printing costs associated with the editions of the *Hartford Educator* that were included in the *Hartford Courant*, which the Commission initially sought to be included in the restitution order, however, the Respondent successfully argued that such costs were not included in a strikingly similar case, *Complaint of Lisa Carver, New Britain*, File No. 2003-261. The Commission reluctantly agrees with the Respondent, but states its prospective intention to seek production costs in any future case under Conn. Gen. Stat. § 9-610(d)(2) concerning a newspaper insert.
14. The Commission has considered that Respondent's staff operated under a mistake of law, and recognizes that they clearly made good faith efforts to attempt to ascertain and comply with the requirements of law, and has considered that in not assessing a civil penalty. However, whenever a violation of this statute occurs, the Commission seeks to make the municipality whole by ordering restitution of public funds.
15. The complaint did not implicate subsection (1) of Conn. Gen. Stat. § 9-610(d), since distribution of *The Hartford Educator* newsletter and the 311 Phone System advertisements occurred prior to the three (3) month period referred in the statute.
16. The Respondent admits all jurisdictional facts and agrees that this agreement and Order shall have the same force and effect as a final decision and Order entered into after a full hearing and shall become final when adopted by the Commission.
17. The Respondent waives:
 - (a) Any further procedural steps;
 - (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this agreement.
18. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him.

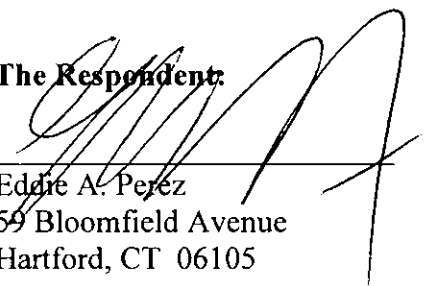
19. It is understood and agreed that this agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the Respondent or the Commission in any subsequent hearing, if the same becomes necessary.

ORDER

IT IS HEREBY ORDERED that the Respondent shall reimburse the City of Hartford in the amount of eight hundred thirty-nine dollars and eighty cents (\$839.80) and provide the Commission with evidence of the same, within one week of the Commission's adoption of this agreement.

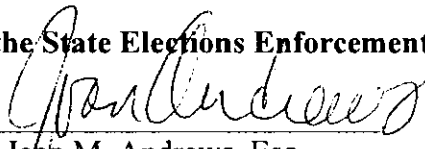
IT IS FURTHER ORDERED that the Respondent and his staff shall henceforth strictly comply with all the requirements of Connecticut General Statutes §9-610(d).

The Respondent:


Eddie A. Perez
59 Bloomfield Avenue
Hartford, CT 06105

For the State Elections Enforcement Commission:

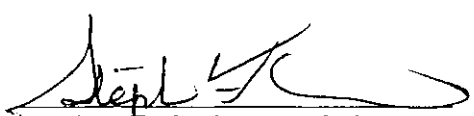
BY:


Joan M. Andrews, Esq.
Director of Legal Affairs and Enforcement
& Authorized Representative of the State
Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, Connecticut


Dated: 12/12/07

Dated: 12/11/07

Adopted this 19th day of December of 2007 at Hartford, Connecticut.


Stephen F. Cashman, Chairman
By Order of the Commission

Approved as to legality and form:


Corporation Counsel.