

STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of Charles W. Shivery

File No. 2007-381

AGREEMENT AND CONSENT ORDER

This settlement agreement and consent order (hereinafter referred to as the "Agreement and Order") by and between Charles W. Shivery of the Town of Avon, County of Hartford (hereinafter referred to as "Respondent"), and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with § 9-7b-54 of the Regulations of Connecticut State Agencies and § 4-177(c) of the General Statutes of Connecticut. With the agreement of the Respondent, the Commission finds as follows:

1. On October 29, 2007, the Commission received a letter from the Senior Counsel at Northeast Utilities Service Company (hereinafter referred to as "NUSCO"), disclosing voluntarily that Respondent had renewed his fifty dollar (\$50.00) membership dues with the Connecticut Republican State Central Committee (hereinafter referred to as the "Connecticut Republicans") on or about January 25, 2007, and the effect it may have on NUSCO and the company's contractual relationships with various State of Connecticut agencies.
2. Respondent is Chairman of the Board of Directors, President and Chief Executive Officer of NUSCO.
3. The Connecticut corporate affiliates of NUSCO include The Connecticut Light and Power Company (hereinafter referred to as "CL&P"), Yankee Gas Services Company (hereinafter referred to as "Yankee Gas"), and the Rocky River Realty Company (hereinafter referred to as "Rocky River").
4. General Statutes (Revised 2007) § 9-612, provides in pertinent part:

(g) (1) As used in this subsection and subsections (h) and (i) of this section:

(C) "State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a fiscal year, for (i) the rendition of personal services, (ii) the furnishing of any material, supplies or equipment, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee.

(D) "State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until the termination of said contract.

(F) "Principal of a state contractor or prospective state contractor" means (i) **an individual who is a member of the board of directors of**, or has an ownership interest in, **a state contractor** or prospective state contractor, which is a business entity, except for an individual who (I) owns less than five per cent of the shares of any such state contractor or prospective state contractor that is a publicly traded corporation, or (II) is a member of the board of directors of a nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, (ii) **an individual who is employed by a state contractor** or prospective state contractor, **which is a business entity, as president**, treasurer or executive or senior vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, (iv) an employee of any state contractor or prospective state contractor who has managerial or discretionary responsibilities with respect to a state contract, (v) the spouse or a dependent child of an individual described in this subparagraph, or (vi) a political committee established by or on behalf of an individual described in this subparagraph. [Emphasis added.]

5. The Commission concludes that NUSCO has multiple agreements or contracts with the state or state agencies, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more.
6. The Commission further concludes that NUSCO is a state contractor within the meaning of General Statutes (Rev. 2007) § 9-612(g).
7. The Commission concludes that the Respondent is a principal of a state contractor because he is the Chairman of the Board of Directors, President and Chief Executive Officer of NUSCO; additionally, Respondent is also a principal of a state contractor by virtue of his position as Chairman of CI.&P, Yankee Gas and his position as President of Rocky River.
8. On January 10, 2007, the Connecticut Republicans widely disseminated a solicitation letter to existing members and to potential members encouraging them to remain or to become members of the Connecticut Republican Party by paying membership dues to the Connecticut Republicans. The Connecticut

Republicans is a "party committee," as that term is defined in General Statutes (Rev. 2007) § 9-601(2).

9. General Statutes (Rev. 2007) § 9-612(g)(2), provides in pertinent part:

**(A) No principal of a state contractor or prospective state contractor, with regard to a state contract, bid solicitation or request for proposals with or from a state agency in the executive branch or a quasi-public agency or a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;**

**(C) If a principal of a state contractor makes or solicits a contribution prohibited under subparagraph (A) or (B) of this subdivision, the contracting state agency or quasi public agency may, in the case of a state contract executed on or after December 7, 2005, void the existing contract with said contractor, and no state agency or quasi-public agency shall award the state contractor a state contract or an extension or an amendment to a state contract for one year after the election for which such contribution is made or solicited. Each state contract shall include the provisions of subparagraph (A) or (B) of this subdivision, whichever is applicable, and this subparagraph as conditions of the contract; [Emphasis added.]**

10. On January 23, 2007, the Respondent renewed his membership dues by check in the amount of \$50.00 to the Connecticut Republicans. The Connecticut Republicans received the Respondent's check on January 25, 2007.

11. By virtue of the above, the Commission concludes that the Respondent, a principal of a state contractor, violated General Statutes (Rev. 2007) § 9-612(g), by making a contribution to the Connecticut Republicans, a "party committee."

12. Although the Commission concludes that the payment of such membership dues to the Connecticut Republicans was prohibited under the applicable statutes, the Respondent believes that the payment was required to maintain his membership in the state party and was not a prohibited contribution. Accordingly, the Respondent respectfully disputes the allegations of the Commission; however, in order to avoid the cost and the uncertainty of extended litigation, the Respondent agrees to settle this matter through the issuance of the Order.

13. The parties attest and acknowledge that this Order represents a full and complete resolution of the disputed matter involving the Respondent, NUSCO and any of its affiliated companies, and does not constitute an admission of liability, or of any wrongdoing or that the Commission's allegations have or had merit or justification. The parties understand and agree that they are entering into this Order solely as a compromise of a disputed claim and on the understanding that neither party concedes the merits of the other party's claims, allegations, or defenses.
14. Because the Respondent's contribution was made to a party committee, the Commission looks to the election that immediately followed that contribution; here, the November 6, 2007 municipal election; as the applicable election for the purposes of determining the one year period set forth in General Statutes (Rev. 2007) § 9-612 (g)(2)(C).
15. The Commission therefore concludes that based on the aforementioned facts, as of November 7, 2008, the contractual consequences associated with a violation of General Statutes (Rev. 2007) § 9-612(g) are no longer applicable due to the expiration of the one year period after the election for which Respondent's contribution was made.
16. Respondent admits all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. Respondent shall receive a copy hereof as provided in § 9-7b-56 of the Regulations of Connecticut State Agencies.
17. It is understood and agreed that this Agreement and Order will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
18. Upon this Agreement and Order becoming final, 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 and Order.
19. Upon Respondent's compliance with the Order hereinafter stated, the Commission shall terminate and shall not continue or initiate any further proceedings against the Respondent, NUSCO, or any of its affiliated companies pertaining to this matter.

**ORDER**

IT IS HEREBY ORDERED THAT the Respondent shall make a payment pursuant to the Agreement and Order in the amount of Five Hundred dollars (\$500.00) to the Commission on or before November 19, 2008.

IT IS HEREBY FURTHER ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-612(g).

For the State of Connecticut

DATED: 11/21/08

BY: J. M. Andrews

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

The Respondent

DATED: 11/17/08

BY: Charles W. Shivery

Charles W. Shivery  
Avon, Connecticut

Adopted this 19<sup>th</sup> day of November 2008 at Hartford, Connecticut by a vote of the Commission.

Stephen F. Cashman  
Stephen F. Cashman, Chairperson  
By Order of the Commission