

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

RECEIVED
STATE ELECTIONS

NOV 10 2008

ENFORCEMENT
COMMISSION 386

In the Matter of a Complaint by
Myrna Watanabe, Harwinton

**AGREEMENT CONTAINING CONSENT ORDER AND
PAYMENT OF A CIVIL PENALTY FOR VIOLATION OF
CONNECTICUT GENERAL STATUTES §§ 9-606(a), 9-607(f), & 9-608**

This Agreement, by and between George Pleau ("Respondent"), of the Town of Harwinton, County of Litchfield, State of Connecticut 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) The Respondent was at all times relevant to this Agreement the treasurer for the Harwinton Republican Town Committee ("Harwinton RTC").
- 2) Complainant challenged the accuracy and completeness of several portions of the Itemized Campaign Finance Disclosure Statements by the Harwinton RTC filed in the year 2007. Specifically, Complainant made the following allegations:

- (a) \$5,043 in receipts listed as "Total Small Food and Beverage Receipts at Fair" are improper for the Itemized Campaign Finance Disclosure Statements covering the period from 1/1/07 through 6/30/07, as the contributions had not been itemized; and
- (b) Any expenditure listed as being to "Candace Jones-Pacholski" is improper, as this individual had filed as a candidate for a slate committee;
- (c) the above donations total more than the \$1,500 donation limit from party committees to slate committees;
- (d) the Itemized Campaign Finance Disclosure Statement dated 10/29 ostensibly covers the period that ended after the report was filed, as it states on the Summary Page that the report is for the period beginning on 10/1/07 through 10/31/07.

- 3) Connecticut General Statutes § 9-606(a), provides in pertinent part:

(a) The campaign treasurer of each committee shall be responsible for (1) depositing, receiving and reporting all contributions and other funds in the manner specified in section 9-608, (2) making and reporting expenditures, (3) reporting expenses incurred but not yet paid, (4) filing the statements required under section 9-608, and (5) keeping internal records of each entry made on such statements. The campaign treasurer

of each committee shall deposit contributions in the committee's designated depository within fourteen days after receiving them. The campaign treasurer of each political committee or party committee which makes a contribution of goods to another committee shall send written notice to the campaign treasurer of the recipient committee before the close of the reporting period during which the contribution was made. The notice shall be signed by the campaign treasurer of the committee making the contribution and shall include the full name of such committee, the date on which the contribution was made, a complete description of the contribution and the value of the contribution. Any dispute concerning the information contained in such notice shall be resolved by the campaign treasurer of the recipient committee. Such resolution shall not impair in any way the authority of the State Elections Enforcement Commission under section 9-7b. The campaign treasurer of the recipient committee shall preserve each such notice received for the period prescribed by subsection (f) of section 9-607.

[Emphasis added.]

4) Connecticut General Statutes § 9-607(f), provides in pertinent part:

(f) Preservation of internal records, credit card statements and receipts, checks and bank statements. ***The campaign treasurer shall preserve all internal records of transactions required to be entered in reports filed pursuant to section 9-608 for four years from the date of the report in which the transactions were entered.*** Internal records required to be maintained in order for any permissible expenditure to be paid from committee funds include, but are not limited to, contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or other lawful purpose of the expenditure. If a committee incurs expenses by credit card, the campaign treasurer shall preserve all credit card statements and receipts for four years from the date of the report in which the transaction was required to be entered. If any checks are issued pursuant to subsection (e) of this section, the campaign treasurer who issues them shall preserve all cancelled checks and bank statements for four years from the date on which they are issued. If debit card payments are made pursuant to subsection (e) of this section, the campaign treasurer who makes said payments shall preserve all debit card slips and bank statements for four years from the date on which the payments are made. In the case of a candidate committee, the campaign treasurer or the candidate, if the candidate so requests, shall preserve all internal records, cancelled checks, debit cards slips and bank statements

for four years from the date of the last report required to be filed under subsection (a) of section 9-608.

[Emphasis added.]

5) Connecticut General Statutes § 9-608, provides in pertinent part:

(a) Filing dates. (1) **Each campaign treasurer of a committee . . . shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603**

...

(c) Content of statements. (1) Each statement filed under subsection (a) . . . of this section shall include, but not be limited to: (A) an itemized accounting of each contribution, if any, including the full name and complete address of each contributor and the amount of the contribution (G) for each individual who contributes in excess of one hundred dollars but not more than one thousand dollars, in the aggregate, to the extent known, the principal occupation of such individual and the name of the individual's employer, if any (J) for each individual who contributes in excess of four hundred dollars in the aggregate to or for the benefit of any candidate's campaign for nomination at a primary or election for the office of chief executive officer of a . . . city . . . a statement indicating whether the individual or a business with which he is associated has a contract with said municipality that is valued at more than five thousand dollars.

...

(2) Each contributor described in subparagraph (G) . . . or (J) of subdivision (1) of this subsection shall, at the time the contributor makes such a contribution, provide the information which the campaign treasurer is required to include under said paragraph in a statement filed under subsection (a) . . . of this section. Notwithstanding any provision of subdivision (2) of section 9-7b, any contributor described in subparagraph (G) of subdivision (1) of this subsection who does not provide such information at the time the contributor makes such a contribution and any treasurer shall not be subject to the provisions of subdivision (2) of section 9-7b. If a campaign treasurer receives a contribution from an individual . . . to or for the benefit of any candidate's campaign for nomination at a primary or election to the office of chief executive officer of a town, city or borough, which separately, or in the aggregate, is in excess of four hundred dollars and the contributor has not provided the information required by said subparagraph (J), the campaign treasurer: (i) Within three business days after receiving the contribution, shall send a request for such

information to the contributor by certified mail, return receipt requested; (ii) shall not deposit the contribution until the campaign treasurer obtains such information from the contributor, notwithstanding the provisions of section 9-606; and (iii) shall return the contribution to the contributor if the contributor does not provide the required information within fourteen days after the treasurer's written request or the end of the reporting period in which the contribution was received, whichever is later. Any failure of a contributor to provide the information which the campaign treasurer is required to include under said subparagraph (G) . . . which results in noncompliance by the campaign treasurer with the provisions of said subparagraph (G) . . . shall be a complete defense to any action against the campaign treasurer for failure to disclose such information.

[Emphasis added.]

- 6) In the April 10, 2007 Itemized Campaign Finance Report, which covered the period from January 1, 2007 through March 31, 2007, the Respondent reported receipts totaling \$2,650.00 for a fundraising affair. However, the Respondent failed to itemize the \$1,980.00 of those receipts—twenty (20) in all—which consisted of contributions over \$50, even though he was required to do so.
- 7) In the July 10, 2007 Itemized Campaign Finance Report, which covered the period from April 1, 2007 through June 30, 2007, the Respondent reported receipts totaling \$1,237.00 for a fundraising affair. However, Respondent failed to itemize the \$959.00 of those receipts—ten (10) in all—which consisted of contributions over \$50, even though he was required to do so.
- 8) The Commission concludes that the Respondent violated General Statutes § 9-608 by failing to itemize the sources of at least **\$3,517.00** in contributions over \$50 to the Harwinton RTC in the April 10, 2007 and July 10, 2007 Itemized Campaign Finance Reports, as described in Paragraphs 6 and 7, above.
- 9) In the October 10, 2007 Itemized Campaign Finance Report, which covered the period from July 1, 2007 through September 30, 2007, the Respondent reported receipts totaling \$578.00 for two separate fundraising affairs, but failed to keep records of the source(s) of the contributions.
- 10) The Commission concludes that the Respondent violated General Statutes §§ 9-607(f) and 9-606(a) by failing to maintain internal records for the source(s) of **\$578.00** in contributions to the Harwinton RTC in the October 10, 2007 Itemized Campaign Finance Report, as described in Paragraph 9, above.
- 11) Connecticut General Statutes § 9-617, provides in pertinent part

(c) (1) No town committee shall make a contribution or contributions to, for the benefit of, or pursuant to the authorization or request of, a candidate or a committee

supporting or opposing any candidate's campaign for nomination at a primary, or any candidate's campaign for election, to the office of: (A) Governor, in excess of seven thousand five hundred dollars; (B) Lieutenant Governor, Secretary of the State, Treasurer, Comptroller or Attorney General, in excess of five thousand dollars; (C) state senator, in excess of five thousand dollars; (D) state representative, probate judge or chief executive officer of a town, city or borough, in excess of three thousand dollars; or (E) any other office of a municipality not previously included in this subsection, in excess of one thousand five hundred dollars. The limits imposed by this subdivision shall apply separately to primaries and elections. [Emphasis added.]

12) Connecticut General Statutes § 9-601a, provides in pertinent part:

“Contribution” defined. (a) As used in this chapter and sections 9-700 to 9-716, inclusive, the term **“contribution”** means:

(1) Any gift, subscription, loan, advance, payment or deposit of money or ***anything of value, made for the purpose of influencing the nomination for election, or election, of any person*** or for the purpose of aiding or promoting the success or defeat of any referendum question or on behalf of any political party;

...

(b) As used in this chapter and sections 9-700 to 9-716, inclusive, “contribution” does not mean:

(16) An organization expenditure by a party committee, legislative caucus committee or legislative leadership committee [Emphasis added]

13) Connecticut General Statutes § 9-601b, provides in pertinent part:

“Expenditure” defined. (a) As used in this chapter and sections 9-700 to 9-716, inclusive, the term **“expenditure”** means:

(1) Any purchase, payment, distribution, loan, advance, deposit or gift of money or ***anything of value, when made for the purpose of influencing the nomination for election, or election, of any person*** or for the purpose of aiding or promoting the success or defeat of any referendum question or on behalf of any political party;

...

(b) The term "expenditure" does not mean:

(8) An *organization expenditure* by a party committee, legislative caucus committee or legislative leadership committee. [Emphasis added]

14) Connecticut General Statutes § 9-601, provides in pertinent part:

General Definitions. As used in this chapter and sections 9-700 to 9-716, inclusive:

...

(25) "**Organization expenditure**" means an expenditure by a *party committee*, legislative caucus committee or legislative leadership committee *for the benefit of a candidate or candidate committee* for:

(A) The preparation, display or mailing or other distribution of a party candidate listing. As used in this subparagraph, "party candidate listing" means any communication that meets the following criteria: (i) The communication lists the name or names of candidates for election to public office, (ii) the communication is distributed through public advertising such as broadcast stations, cable television, newspapers or similar media, or through direct mail, telephone, electronic mail, publicly accessible sites on the Internet or personal delivery, (iii) the treatment of all candidates in the communication is substantially similar, and (iv) the content of the communication is limited to (I) for each such candidate, identifying information, including photographs, the office sought, the office currently held by the candidate, if any, the party enrollment of the candidate, a brief statement concerning the candidate's positions, philosophy, goals, accomplishments or biography and the positions, philosophy, goals or accomplishments of the candidate's party, (II) encouragement to vote for each such candidate, and (III) information concerning voting, including voting hours and locations; [Emphasis added]

15) The Commission concludes that Respondent is not in violation of General Statutes §§ 9-617 for its expenditures on behalf of Candace Jones-Pacholski or her slate committee.

16) The \$2,405.82 that Ms. Jones Pacholski was reimbursed from the Harwinton RTC constituted neither impermissible expenditures for, nor contributions to, Ms. Jones-Pacholski or her slate committee. Ms. Jones-Pacholski was reimbursed by the Harwinton RTC for costs incurred for mailings which constituted "party candidate listings" promoting Ms. Jones-Pacholski as a candidate. "Party candidate listings" paid for by

party committees are "organization expenditures" exempt from the definition of "expenditure" contained within General Statutes § 9-601b.

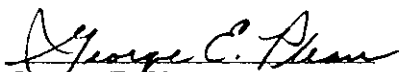
- 17) Regarding the "party candidate listing" in question: 1) the communication lists the name of the candidate for First Selectman in Harwinton; 2) the communication was distributed by postal mail and personal delivery; 3) there is only a single candidate listed and as such there are no concerns regarding equal or similar treatment; and 4) the content of the communication is limited to identifying information, a photograph of the candidate, the office sought, the party enrollment of the candidate as well as a brief statement concerning the candidate's positions, philosophy, goals, accomplishments and biography. Finally, the content is only an encouragement to vote for the candidate. As such, and because of the foregoing, the allegations against Respondent regarding "expenditures" to Candace Jones-Pacholski and/or the municipal slate committee "Pacholski Kasznay '07" are dismissed.
- 18) Finally, there is also no violation where the 10/31 Itemized Campaign Finance Report was signed on 10/29 and listed the period covering 10/1/07 through 10/31/07 as the relevant period; no activity after 10/29/07 is stated in the report and no evidence suggests that such activity exists.
- 19) The Respondent admits all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
- 20) It is understood and agreed that this Agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
- 21) 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.
- 22) Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

ORDER

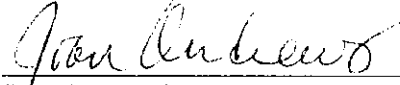
IT IS HEREBY ORDERED that on or before November 13, 2008, Respondent shall:

- 1) pay a civil penalty of seven hundred fifty dollars (\$750.00) to the Commission;
- 2) file, *in full*, amended and complete Itemized Campaign Finance Reports for the April 10, 2007 and July 10, 2007 reporting periods for the Harwinton RTC; and
- 3) henceforth strictly comply with the requirements of Connecticut General Statutes §§ 9-606(a), 9-607(f), & 9-608.

The Respondent:


George E. Pleau
87 Bull Rd.
Harwinton, CT 06791

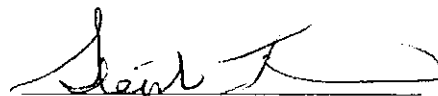
For the State of Connecticut:

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

Dated: 11/7/08

Dated: 11/10/08

Adopted this 19th day of November of 2008 at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission