

**STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by  
Heather Cappabianca, Winsted

File No. 2008-071

**AGREEMENT CONTAINING CONSENT ORDER AND  
PAYMENT OF A CIVIL PENALTY FOR VIOLATION OF  
CONNECTICUT GENERAL STATUTES §§ 9-602, 9-605 & 9-621(c)**

This Agreement, by and between Barbara Wilkes, of the Incorporated City of Winsted, Town of Winchester, 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 in this matter is Barbara Wilkes, the agent and primary organizer for a group of individuals from the town of Winchester that called itself the Informed Citizen Group (“ICG”), a group which loosely organized in early 2008 to discuss issues affecting the town.
2. On or about May 5, 2008 the Town of Winchester Annual Town Budget Meeting was held on the first Monday in May, as per the Town of Winchester Charter, at which the annual budget was presented and the electors at the meeting had an opportunity to review, comment on and make amendments thereto. Also in accordance with said Charter, a quorum of the members of the Board of Selectman at said Annual Town Budget Meeting set the date of May 27, 2008—a date “not less than twenty-one days and not more than twenty-eight days following the Annual Town Budget Meeting”—for a mandatory budget referendum.
3. At said Annual Town Budget Meeting, all of the conditions required under the Town of Winchester Charter were met and the referendum became “legally pending.” See Complaint of William & Kathleen Oppenheimer, et. al., Redding, File No. 2003-180 (a referendum is legally pending when all of the necessary legal conditions have been satisfied to require that a referendum be held).
4. On or about May 13, 2008, during the pendency of the subject referendum, the ICG, through its agent, the Respondent Barbara Wilkes, collected contributions totaling \$404 from individuals within the ICG for the explicit purpose of making expenditures to advocate for the defeat of the aforesaid annual budget at the pending referendum.
5. Respondent authorized and made expenditures totaling \$394 on behalf of the ICG for distributing via postal mail to the residents of the town of Winsted a communication advocating the defeat of the annual budget at the pending referendum.

6. Connecticut General Statutes § 9-602, provides in pertinent part:

(a) Except with respect to an individual acting on his own, *no contributions may be made, solicited or received and no expenditures may be made, directly or indirectly, in aid of or in opposition to the candidacy for nomination or election of any individual or any party or referendum question, unless* (1) the candidate or chairman of the committee has filed a designation of a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds or (2) the candidate or, in the event of a referendum question, a group of individuals has filed a certification in accordance with the provisions of section 9-604 or 9-605, as the case may be. In the case of a political committee, the filing of the statement of organization by the chairman of such committee, in accordance with the provisions of section 9-605 shall constitute compliance with the provisions of this subsection. . . . [Emphasis added.]

7. General Statutes § 9-605, provides in pertinent part:

(d) A group of two or more individuals who have joined solely to promote the success or defeat of a referendum question *shall not be required to file as a political committee, make such designations in accordance with subsections (a) and (b) of this section or file statements pursuant to section 9-608, if the group does not receive or expend in excess of one thousand dollars for the entire campaign and the agent of such individuals files a certification with the proper authority or authorities as required under section 9-603 before an expenditure is made.* The certification shall include the name of the group, or the names of the persons who comprise the group, and the name and address of the agent which shall appear on any communication paid for or sponsored by the group as required by section 9-621. If the group receives or expends in excess of one thousand dollars, the agent shall complete the statement of organization and file as a political committee not later than three business days thereafter. The agent shall provide the designated campaign treasurer with all information required for completion of the statements for filing as required by section 9-608. The filing of a certification under this subsection shall not relieve the group from compliance with the provisions of this chapter, and the group shall be considered a political committee established solely for a referendum question for purposes of the limitations on contributions and expenditures. [Emphasis added.]

8. The Respondent, as agent for the ICG, violated General Statutes §§ 9-602 & 9-605 by accepting contributions and making expenditures in opposition to a referendum question, but failing to file the certification required under § 9-605 for groups that do not receive or expend in excess of one thousand dollars.

9. General Statutes § 9-621, provides in pertinent part:

*(c) No business entity, organization, association, committee, or group of two or more individuals who have joined solely to promote the success or defeat of a referendum question and is required to file a certification in accordance with subsection (d) of section 9-605, shall make or incur any expenditure for any written, typed or other printed communication which promotes the success or defeat of any referendum question unless such communication bears upon its face the words "paid for by" and the following: (1) In the case of a business entity, organization or association, the name of the entity, organization or association and the name of its chief executive officer; (2) in the case of a political committee, the name of the committee and the name of its campaign treasurer; (3) in the case of a party committee, the name of the committee; or (4) in the case of such a group of two or more individuals, the name of the group as it appears on the certification filed in accordance with subsection (d) of section 9-605, and the name and address of its agent. [Emphasis added.]*

10. The subject communication was a 4" x 6" postcard printed on heavy orange stock paper. The content of the postcard contained information advocating the defeat of the budget as the "Budget Position of Informed Citizens Group" with a large-font "Vote No!" at the bottom. There is no attribution on either side of the postcard identifying the person or entity that paid for it.
11. The Respondent violated General Statutes § 9-621(c) by making an expenditure on behalf of the ICG for a printed communication promoting the defeat of a referendum question and failing to include on its face the words "paid for by," the name of the group as it should have appeared on the certification filed in accordance with subsection (d) of section 9-605, as well as the name and address of its agent, the Respondent Barbara Wilkes.
12. 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.
13. 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.

14. 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.

15. 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 the Respondent shall pay a civil penalty of one hundred dollars (\$100.00) to the Commission on or before October 14, 2008 and that the Respondent shall henceforth strictly comply with the requirements of Connecticut General Statutes §§ 9-602, 9-605 & 9-621(c).

**The Respondent:**

Barbara Wilkes  
Barbara Wilkes  
426 East Wakefield Blvd.  
Winsted, Connecticut

**For the State of Connecticut:**

BY: Joan Andrews  
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: 10/3/2008

Dated: 10/7/08

Adopted this 15<sup>th</sup> day of OCT. of 2008 at Hartford, Connecticut

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