

~~STATE OF CONNECTICUT~~
~~STATE ELECTIONS ENFORCEMENT COMMISSION~~
~~STATE ELECTIONS~~

Complaint of Lisa Carver,
New Britain

11 9 2009

File No. 2008-032

~~ENFORCEMENT~~
~~COMMISSION~~
**AGREEMENT CONTAINING CONSENT ORDER AND
PAYMENT OF A CIVIL PENALTY FOR VIOLATIONS OF
GENERAL STATUTES §§ 9-602, 9-607 and 9-622(10)**

This agreement, by and between Mike Maloney of Berlin; Don Martin of Plantsville; and Bob Scarlett of Plainville; of the County of Hartford, State of Connecticut (hereinafter referred to as the Respondents) 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. In accordance herewith, the parties agree that:

1. Complainant filed the instant complaint with the Commission alleging that the Wyskiewicz for Mayor candidate committee: 1) received an impermissible business entity contribution in the form of free rent; 2) reported an aggregate in kind contribution from four individuals in the amount of \$1,185.31 without itemizing their individual contributions; and 3) failed to properly disclose a series of contributor information.
2. James Wyskiewicz was the Democratic candidate for Mayor in the November 6, 2007 City of New Britain municipal election, and designated the Wyskiewicz for Mayor candidate committee (hereinafter "Wyskiewicz for Mayor") as the funding vehicle for his campaign.
3. Allegations with respect to other Respondents are addressed in separate disposition documents.
4. The complainant specifically alleged possible violations with respect to a reported in-kind contribution of \$1,185.31 that the treasurer of Wskiewicz for Mayor aggregated and attributed to four separate individuals, including the Respondents. On the October 10, 2007 itemized campaign finance disclosure statement (SEEC 20), Wskiewicz for Mayor reported an in-kind contribution of food, wine and supplies in the amount of \$1,185.31. The \$1,185.31 in-kind contribution was reported as being related to an August 12, 2007 Wskiewicz for Mayor pasta dinner fundraiser. The Wskiewicz for Mayor treasurer aggregated and attributed the purported in-kind contribution to four individuals: Edward Preece, Mike Maloney, Don Martin and Bob Scarlett, without reporting an itemized contribution from each.
5. At its December 17, 2008 Commission meeting, the Commission voted to expand the investigation to determine whether the four individuals, who reportedly organized the fundraiser for Wskiewicz for Mayor on behalf of New Britain firefighters, had properly conducted fundraising on behalf of the committee.

6. The expanded investigation revealed that Mike Maloney, Don Martin and Bob Scarlett were in part responsible for the reported in-kind contribution in the amount of \$1,185.31 to Wyskiewicz for Mayor. The expanded investigation also revealed that the \$1,185.31 was not attributable to Edward Preece.

7. In fact, the Respondents sold tickets at \$10.00 per ticket to a pasta dinner for a Wyskiewicz for Mayor fundraiser held on August 12, 2007. The Respondents then used the proceeds from the ticket sales to directly purchase supplies, including food and drinks for the fundraiser, and did not turn over all funds received to the campaign treasurer for deposit in the committee's depository account. The Respondents cannot recall to whom they sold the tickets for the fundraiser to, nor do they recall how many tickets were sold to the event. The Respondents did not maintain any records of the ticket sales and as such they did not maintain any records of the contributions they received as a result of the ticket sales.

8. General Statutes § 9-601(14) defines a "**Solicitor**" as an individual appointed by a campaign treasurer of a committee to receive, but not to disburse, funds on behalf of the committee.

9. General Statutes § 9-606(c) provides in pertinent part:

(c) **The campaign treasurer of each committee**, other than a political committee established by an organization which receives its funds from the organization's treasury, **may appoint solicitors**. If solicitors are appointed, the campaign treasurer shall receive and report all contributions made or promised to each solicitor. Each solicitor shall submit to the campaign treasurer a list of all contributions made or promised to him. The list shall be complete as of seventy-two hours immediately preceding midnight of the day preceding the dates on which the campaign treasurer is required to file a sworn statement as provided in section 9-608. Lists shall be received by the campaign treasurer not later than twenty-four hours immediately preceding each required filing date. Each solicitor shall deposit all contributions with the campaign treasurer, within seven days after receipt. No solicitor shall expend any contributions received by him or disburse such contributions to any person other than the campaign treasurer. [Emphasis added.]

10. The Respondents were not formally appointed as solicitors in accordance with General Statutes § 9-606(c) and the Respondents were not solicitors as that term is defined by General Statutes § 9-601(14).

11. General Statutes § 9-601a provides in pertinent part:

(a) As used in this chapter and sections 9-700 to 9-716, inclusive, "**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 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; [Emphasis added.]

12. General Statutes § 9-601b provides in pertinent part:

(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; [Emphasis added.]

13. General Statutes § 9-602 provides in pertinent part:

(b) **No contribution in aid of or in opposition to the candidacy of any person** or to any party or referendum question **shall be made at any time, except to the committee's campaign treasurer whose designation is on file with the proper authority, a solicitor**, a candidate who is exempt from the requirement to form a candidate committee and has filed a certification, or a group of individuals which have joined solely to support or oppose a referendum question and have filed a certification. [Emphasis added.]

14. General Statutes § 9-607 provides in pertinent part:

(a) **No financial obligation shall be incurred by a committee unless authorized by the campaign treasurer**, except that certain expenditures of a candidate's personal funds may be reimbursed as provided in subsection (k) of this section.

(d) Except as provided in subsections (j) and (k) of this section, **no payment in satisfaction of any financial obligation incurred by a committee shall be made by or accepted from any person other than the campaign treasurer** and then only according to the tenor of an authorization issued pursuant to subsection (a) of this section.

(e)(1) **Any such payment shall be by check drawn by the campaign treasurer, on the designated depository**. Any payment in satisfaction of any financial obligation incurred by a committee may also be made by debit card or credit card... [Emphasis added.]

15. The Commission concludes that the Respondents violated General Statutes § 9-602(b) by receiving contributions when in fact they were not the campaign treasurer and because they were not formally appointed as solicitors.

16. The Commission further concludes that the Respondents violated General Statutes § 9-622(10) by receiving impermissible contributions, by way of General Statutes § 9-602(b).

17. The Respondents violated General Statutes § 9-607 (a) & (d) by personally expending committee funds in the form of fundraiser ticket sale proceeds on expenditures not authorized by the treasurer. Furthermore, the payment for these expenditures by the Respondents were not drawn by the Wyskiewicz for Mayor treasurer on the designated depository account in violation of General Statutes § 9-607(e)(1). Additionally, the Respondents caused the fundraiser ticket proceeds not to be directly deposited in the Wyskiewicz for Mayor designated depository account.
18. The Respondents violations are mitigated in part by the fact that the committee treasurer was present at the fundraiser and failed to properly instruct them and or inform of their obligations in this regard. Nevertheless, their actions, coupled with the treasurer's failure to properly supervise them, resulted in a lack of an itemized accounting of each contribution received in connection with the fundraiser in question and a lack of an itemized accounting of each expenditure in connection with the fundraiser in question.
19. The Respondents admit all jurisdictional facts and agree 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 Respondents shall receive a copy hereof as provided in § 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 Respondents and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
21. The Respondents waive:
 - (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 Respondents compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondents pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondents shall each pay a civil penalty of one hundred dollars (\$100.00) to the Commission on or before September 24, 2009;

IT IS HEREBY FURTHER ORDERED that the Respondent shall henceforth comply with General Statutes §§ 9-602(b), 9-607(a), 9-607(d), 9-607(e), and 9-622(10).

For the State of Connecticut:

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

Dated: 9-24-09

The Respondents:

<u>[Signature]</u> Mike Maloney Berlin, CT	<u>[Signature]</u> Don Martin Plantsville, CT	<u>[Signature]</u> Bob Scarlett Plainville, CT
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Dated: 9-24-09 9-24-09 9-24-09

Adopted this 21st day of October 2009 at Hartford, Connecticut

[Signature]
Stephen F. Cashman, Chairman
By Order of the Commission