

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
STATE ELECTIONS

Complaint of Michael E. Pohl,
Manchester

MAY 06 2010

File No. 2008-160

ENFORCEMENT COMMISSION
AGREEMENT CONTAINING HENCEFORTH ORDER
FOR A VIOLATIONS OF General Statutes §§ 9-606(a), 9-607(f) and 9-608(c)

This agreement, by and between Paul McNamara, of the Town of Manchester, County of Hartford, State of Connecticut (hereinafter referred to as the 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. In accordance herewith, the parties agree that:

1. Complainant filed the instant complaint with the Commission alleging campaign finance law violations involving the Manchester Republican Town Committee (hereinafter MRTC) in connection with their use of the campaign headquarters located at 52 Main Street in Manchester for the November 2008 Election. Specifically, Complainant alleges that the MRTC did not report expenditures for rent/lease payments or utilities during the campaign finance disclosure reporting periods of 07/01/08 to 09/30/08 and 10/01/08 to 10/21/08. Complainant further alleges that the building is owned by a Limited Liability Company (LLC) and that the MRTC's failure to make rent/lease payments and or pay for utilities constitutes an illegal in-kind business entity contribution from the LLC to the MRTC.
2. Complainant also alleged that the MRTC made expenditures in the form of the use of headquarters on behalf of David Blackwell, Blackwell '08; Cheri Ann Pelletier, Pelletier "08", and Clifton Thompson, Cliff Thompson '08 and that their respective candidate committees did not report the receipt of the expenditures.
3. Respondent was at all times relevant to this complaint, the duly designated treasurer of the MRTC.
4. 52 Main Street in Manchester, Connecticut is owned by D & E Properties LLC. D & E Properties LLC is a business entity as that term is defined by General Statutes § 9-601(8).
5. General Statutes § 9-613 provides in pertinent part:

(a) No business entity shall make any contributions or expenditures to, or for the benefit of, any candidate's campaign for election to any public office or position subject to this chapter or for nomination at a primary for any such office or position, or to promote the defeat of any candidate for any such office or position. No business entity shall make any other contributions or expenditures to promote the success or defeat of any political party, except as provided in subsection (b) of this section. No business entity shall establish

more than one political committee. A political committee shall be deemed to have been established by a business entity if the initial disbursement or contribution to the committee is made under subsection (b) of this section or by an officer, director, owner, limited or general partner or holder of stock constituting five per cent or more of the total outstanding stock of any class of the business entity. [Emphasis added.]

6. Prior to September 1, 2008, the Respondent entered into an informal oral lease agreement with D & E LLC for the use of the front rooms at 52 Main Street in Manchester, for the MRTC headquarters for a period of 09/01/08 to 11/04/08.
7. State Senate candidate David Blackwell, and State Representative candidates Cheri Ann Pelletier and Clifton Thompson all used the headquarters at 52 Main Street in Manchester in connection with their respective 2008 Election campaigns for a period of 09/01/08 to 11/04/08.
8. The MRTC paid an apportioned 2/5 rent for use of the front rooms at 52 Main Street for a period of 09/01/08 to 11/04/08 in the amount of \$300. The campaigns of State Senate candidate David Blackwell, and State Representative candidates Cheri Ann Pelletier and Clifton Thompson also each paid an apportioned 1/5 rent for use of the front rooms at 52 Main Street for a period of 09/01/08 to 11/04/08 in the amount of \$150 each for a total of \$750 for the approximately two month period.
9. The space located at 52 Main Street that the MRTC, Pelletier '08, Cliff Thompson '08, and Blackwell '08 rented was an approximately 300 square foot factory office in average condition in a building designated for light industrial use. Prior to the use by the above named committees from 09/01/08 to 11/04/08 and subsequent to that use, the front rooms that were used have been vacant.
10. Under the circumstances and terms of the informal oral lease agreement, which created a periodic tenancy between the above named committees and D & E Properties LLC and based on the condition of the space, the Commission concludes that the value that was paid by the above named committees to D & E Properties LLC was fair market value.
11. Accordingly, D & E Properties LLC did not make a prohibited in-kind business entity contribution to the MRTC, nor did D & E Properties LLC make a prohibited in-kind business entity contribution to Pelletier '08, Cliff Thompson '08 or Blackwell '08.
12. The Respondent received an invoice from D & E Properties, LLC, dated November 24, 2008 addressed to the MRTC, care of the Respondent, which indicated that the MRTC paid an apportioned rent for front rooms at 52 Main Street and the total amount due was \$300. The candidate committees were sent invoices for \$150 each on or about the same date.

13. The D & E Properties, LLC invoice represents the only written information regarding the rental of 52 Main Street by the MRTC and the candidate committees mentioned above.

14. 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;*

(c) "*Expense incurred but not paid*" means any receipt of goods or services for which payment is required but not made or a written contract, promise or agreement to make an expenditure. [Emphasis added.]

15. General Statutes § 9-606 provides in pertinent part:

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*. [Emphasis added].

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

(f) *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.]

17. General Statutes § 9-608 provides in pertinent part:

(c)(1) Each statement filed under subsection (a), (e) or (f) 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; (B) in the case of anonymous contributions, the total amount received and the denomination of the bills; (C) *an itemized accounting of each expenditure*, if any, including the full name and complete address of each payee, including secondary payees whenever the primary or principal payee is known to include charges which the primary payee has already paid or will pay directly to another person, vendor or entity, the amount and the purpose of the expenditure, the candidate supported or opposed by the expenditure, whether the expenditure is made independently of the candidate supported or is an in-kind contribution to the candidate, and a statement of the balance on hand or deficit, as the case may be; (D) *an itemized accounting of each expense incurred but not paid*, . . .

18. Accordingly, in the instant case, the expense incurred but not paid for the rent should have been disclosed on the October 10, 2008 itemized campaign finance disclosure statement (SEEC Form 20). Respondent did not disclose the payment of \$300 until the January 12, 2009 itemized campaign finance disclosure filing (SEEC Form 20) for the MRTC. The failure to disclose the rent as an expense incurred but not paid on or before October 10, 2008 constitutes a violation of General Statutes § 9-608(c).
19. At the time that the MRTC and the candidate committees occupied the property at 52 Main Street, they did not have a written lease executed with the owner of the property. In fact, the only written record was an invoice dated on or about November 24, 2008, after the period of occupancy.
20. Respondent failed to maintain contemporaneous internal records in connection with the rental of 52 Main Street for MRTC headquarters, in violation of C.G.S. §9-606b(a) and 9-607(f). Contemporaneous records are required in order for the expenditure to be permissible and payable from committee funds.
21. As indicated above, D & E Properties LLC did not make a prohibited in-kind business entity contribution to the MRTC, nor did D & E Properties LLC make a prohibited in-kind business entity contribution to Pelletier "08", Cliff Thompson '08 or Blackwell '08. In light of the fact that the MRTC did not make any contributions to Blackwell '08, Pelletier "08", and Cliff Thompson '08 in connection with the rental of 52 Main Street, that allegation is dismissed with respect to the candidate committees.

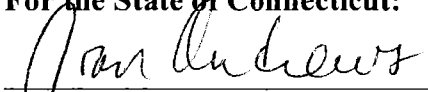
22. However, during the course of the Commission investigation and as a result of the Commission's 2008 General Assembly Audit Program which encompassed each candidate committee established for the November 4, 2008 General Election, the Commission determined that each of the above named candidate committees failed to have a contemporaneous lease for the rental of 52 Main Street and that the 52 Main Street rental expenditures were not disclosed during the proper reporting period.
23. The Commission is taking no further action in connection with these issues with respect to the candidate committees because they were within the scope of the Commission's Campaign Disclosure & Audit Unit Final Audit Report for the candidates' respective committees.
24. The Commission has taken into consideration with respect to the Respondent that the other occupants' issues have been addressed as part of, or were within the scope of, the Commission's 2008 General Assembly Audit Program. Accordingly, the Commission will seek a similar resolution with the Respondent in only ordering him to be more diligent in his maintenance of internal records and more diligent when it comes to reporting any expense incurred but not paid.
25. 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 § 9-7b-56 of the Regulations of Connecticut State Agencies.
26. 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.
27. 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.
28. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth comply with Gen. Stat. §§ 9-606(a), 9-607(f) and 9-608(c).

For the State of Connecticut:

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, CT

Dated: 5/10/10

For The Respondent:

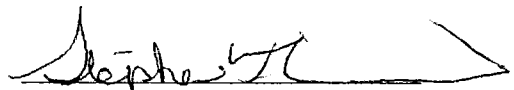


Paul McNamara, Treasurer

Manchester Republican Town Committee
Manchester, CT

Dated: 4/21/2010

Adopted this 26th day of May of 2010 at Hartford, Connecticut



Stephen F. Cashman, Chairman

By Order of the Commission