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STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
ENFORCEMENT
COMMISSION

In the Matter of a Complaint by
John E. Kisluk, Plainville

File No. 2009-037

**AGREEMENT CONTAINING CONSENT ORDER FOR VIOLATIONS
OF CONNECTICUT GENERAL STATUTES § 9-620(d).**

This agreement, by and between Greg Pecoraro, (hereinafter referred to as the Respondent), of the Town of Frederick, State of Maryland 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 Town of Plainville had a referendum on March 31, 2009, on whether the town should appropriate \$7,711,640 for the acquisition Robertson Field airport property and associated properties. The appropriation for the acquisition of the airport by the Town of Plainville was approved at the March 31, 2009 referendum with 1,432 "yes" votes and 791 "no" votes.
2. Complainant alleged that the Aircraft Pilots and Owners Association (hereinafter "APOA") made expenditures for a March 19, 2009 newspaper advertisement in *The Plainville Citizen* and a March 25, 2009 mailer advocating a "yes" vote on the March 31, 2009 referendum in Plainville without registering as an entity making referendum expenditures with the town clerk, pursuant to General Statutes § 9-620(d).
3. The Respondent is the Vice President, Airports and State Advocacy of AOPA, an out-of-state association with headquarters in Frederick, Maryland.
4. General Statutes § 9-620, provides in pertinent part:

... (d) Any such *person* other than an individual or a committee which *makes expenditures or has expenses incurred but not paid in excess of one thousand dollars* in the state or political subdivision thereof *in which a referendum question is to be voted upon, shall file all designations and sworn financial statements required to be filed by political committees and comply with all provisions of this chapter which apply to political committees.*

[Emphasis added.]

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

(a) The chairperson of each political committee shall designate a campaign treasurer and may designate a deputy campaign treasurer. The campaign treasurer and any deputy campaign treasurer so designated shall sign a statement accepting the designation. The chairperson of each political committee shall file a registration statement described in subsection (b) of this section along with the statement signed by the designated campaign treasurer and deputy campaign treasurer with the proper authority, ***within ten days after its organization***, provided that the chairperson of any political committee organized within ten days prior to any primary, election or referendum in connection with which it intends to make any contributions or expenditures, shall immediately file a registration statement.
[Emphasis added.]

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

(a) Filing dates. (1) Each campaign treasurer of a committee, other than a state central committee, shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603, (A) ***on the tenth calendar day in the months of January, April, July and October, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, the statement shall be filed on the next business day***, (B) on the seventh day preceding each regular state election, except that (i) in the case of a candidate or exploratory committee established for an office to be elected at a municipal election, the statement shall be filed on the seventh day preceding a regular municipal election in lieu of such date, and (ii) in the case of a town committee, the statement shall be filed on the seventh day preceding each municipal election in addition to such date, and (C) ***if the committee has made or received a contribution or expenditure in connection with any other election, a primary or a referendum, on the seventh day preceding the election, primary or referendum. . .***
[Emphasis added.]

7. On May 18, 2009, the AOPA filed a *Registration for an Entity Making Referendum Expenditures From Existing Treasury Funds in Excess of \$1,000* (SEEC Form 7) and a *Referendum Expenditure Statement for an Entity Using Existing Treasury Funds ONLY* (SEEC Form 24) with the Plainville Town Clerk.

8. The AOPA May 18, 2009 SEEC Form 24 covers the period from 01/01/09 through 03/31/09, and indicates that a March 19, 2009 expenditure was made in the amount of \$1,298.42 for an advertisement that appeared in the *Record Journal* newspaper.
9. The AOPA as an association is a "person" within the meaning of General Statutes § 9-601(10).
10. The \$1,298.42 expenditure made by the AOPA on March 19, 2009 for an advertisement advocating a "yes" vote in the Plainville referendum exceeded \$1,000, and pursuant to General Statutes § 9-605(a) Respondent should have filed a registration statement within ten days of making that expenditure, or incurring its expense, and certainly by March 30, 2009. The AOPA filed its registration statement with the Plainville Town Clerk on May 18, 2009.
11. The Respondent was not required to make an expenditure filing seven days prior to the referendum, or March 24, 2009, because the cut off date for that reporting period was March 17, 2009, prior to the initial expenditure made by AOPA.
12. The Respondent should have filed a *Referendum Expenditure Statement for an Entity Using Existing Treasury Funds ONLY* SEEC Form 24 by April 10, 2009, the next filing date under § 9-608 after it made an expenditure in excess of \$1,000 to advocate for a referendum.
13. Accordingly, pursuant to General Statutes § 9-620(d), AOPA should have made the required filings with the Plainville Town Clerk when its expenditures or expenses incurred but not paid made or incurred to influence the referendum exceeded \$1,000. By failing to do so within the time periods prescribed by §§ 9-605 and 9-608, the Respondent violated General Statutes § 9-620(d).
14. The Commission finds that Respondent made significant efforts to comply with state campaign finance law, by researching the law, the guidance material provided by the state, and the forms, and by contacting the staff on several occasions for confirmation of that research and advice *prior* to deciding to or making any expenditures to influence the March 31, 2009 referendum in the Town of Plainville.
15. The Respondent maintains that AOPA understood from these efforts that the registration forms were not triggered to be filed until the expense for the advocacy was paid rather than incurred but not yet paid, in accordance with the Commission's Referendum Question Guidebook, instructing corporations and other business entities previously in existence to comply with 9-620(d) by filing within 10 days of expending \$1,000, and the separate definitions for "expenditure" and "expense incurred but not paid" found in 9-601b. All other necessary Compliance actions were taken, including use of the statutorily required language for advocacy, by Respondent.

16. The Commission maintains it was not consulted regarding the distinction between expenditure and expense incurred but not paid, and 9-620(d) expressly addresses this issue.
17. The Commission further finds that Respondent, upon recognizing its filing requirements pursuant to section § 9-620(d) and its unintentional failure to file such documents in strict compliance with the law, complied with the statute by directly filing the necessary registration and disclosure statements with the Plainville Town Clerk, and thereafter timely filing the subsequent statement that was due.
18. While Respondent agrees to this consent order to avoid further administrative proceedings, Respondent nevertheless believes that its application of the law at the time was consistent with the action it took in this matter to comply with the law.
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 or the AOPA pertaining to this matter.

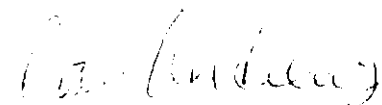
ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-620(d).

For the State of Connecticut

Dated: 11/3/09

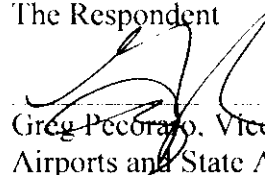
BY:



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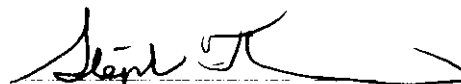
Dated: 10/30/2009

The Respondent



Greg Pecora, Vice President
Airports and State Advocacy
Aircraft Pilot and Owners
Association
Frederick, Maryland

Adopted this 15th day of November 2009 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission