

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Neil Cable, Town of Bridgewater

File No. 2009-058

**AGREEMENT CONTAINING HENCEFORTH ORDER AND
PAYMENT OF A CIVIL PENALTY FOR VIOLATIONS
OF CONNECTICUT GENERAL STATUTES ~~§§ 9-621 & 9-604~~**

This agreement, by and between William T. Stuart, of the Town of Bridgewater, County of Litchfield, 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 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. Respondent was the incumbent Democratic candidate for First Selectman of the Town of Bridgewater in the November 3, 2009 municipal election.
2. Complainant filed this complaint against the Respondent, alleging that he violated General Statutes § 9-621 by sending out an invitation to a cocktail party that did not include an attribution. The Complainant further alleged that Respondent held the above event at a private facility at no charge, and thereby received a prohibited business entity contribution on behalf of his campaign.
3. On or about May 23, 2009, Respondent decided to host an outdoor gathering of friends and neighbors at his home to introduce them to his proposed running mate, Mr. Curtis Read.
4. The invitation that is the subject of this complaint reads as follows:

*Please join us for – a cocktail party – at Bill Stuarts [sic] home
1 Curtis Road – Thursday, May 28th from 7 PM to 8:30 PM
Come Meet Bills [sic] choice for a Democratic running mate. This
will be a casual evening and an opportunity to ask questions
and discuss issues and thoughts on Bridgewater's [sic] future.*

5. Respondent asserted that did not believe that he needed an attribution on the invitation because he was not a candidate at the time, and did not solicit or receive any contribution in the invitation or at the event.
6. General Statutes § 9-601, provides in pertinent part:

(11) "Candidate" means an individual who seeks nomination for election or election to public office whether or not such individual is elected, and for the purposes of this chapter and sections 9-700 to 9-716, inclusive, an individual shall be deemed to seek nomination for election or election if such

individual has (A) been endorsed by a party or become eligible for a position on the ballot at an election or primary, or (B) solicited or received contributions, made expenditures or given such individual's consent to any other person to solicit or receive contributions or make expenditures with the intent to bring about such individual's nomination for election or election to any such office. "Candidate" also means a slate of candidates which is to appear on the ballot in a primary for the office of justice of the peace. For the purposes of sections 9-600 to 9-610, inclusive, and section 9-621, "candidate" also means an individual who is a candidate in a primary for town committee members.
[Emphasis added.]

7. General Statutes § 9-601b provides, in relevant 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.]

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

(a) *No individual shall make or incur any expenditure* with the cooperation of, at the request or suggestion of, or in consultation with any candidate, candidate committee or candidate's agent, *and no candidate or committee shall make or incur any expenditure . . . for any written, typed or other printed communication*, or any web-based, written communication, *which promotes the success or defeat of any candidate's campaign for nomination at a primary or election or solicits funds to benefit any political party or committee unless such communication bears upon its face (1) the words "paid for by" and the following: (A) In the case of such an individual, the name and address of such individual; (B) in the case of a committee other than a party committee, the name of the committee and its campaign treasurer; or (C) in the case of a party committee, the name of the committee, and (2) the words "approved by" and the following: (A) In the case of an individual making or incurring an expenditure with the cooperation of, at the request or suggestion of, or in consultation with any candidate, candidate committee or candidate's agent, the name of such individual; or (B) in the case of a candidate committee, the name of the candidate.* ...
[Emphasis added.]

9. Connecticut General Statutes § 9-604, provides in pertinent part,

(a) Each candidate for a particular public office or the position of town committee member shall form a single candidate committee for which he shall designate a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds and shall file a committee statement containing such designations, ***not later than ten days after becoming a candidate***, with the proper authority as required by section 9-603. The candidate may also designate a deputy campaign treasurer on such committee statement. The campaign treasurer and any deputy campaign treasurer so designated shall sign a statement accepting such designation which the candidate shall include as part of, or file with, the committee statement.

(b) The formation of a candidate committee by a candidate and the filing of statements pursuant to section 9-608 shall not be required if the candidate files a certification with the proper authority required by section 9-603, not later than ten days after becoming a candidate, and any of the following conditions exist for the campaign: (1) The candidate is one of a slate of candidates whose campaigns are funded solely by a party committee or a political committee formed for a single election or primary and expenditures made on behalf of the candidate's campaign are reported by the committee sponsoring the candidate's candidacy; (2) the candidate finances the candidate's campaign entirely from personal funds and does not solicit or receive contributions, provided if said candidate personally makes an expenditure or expenditures in excess of one thousand dollars to, or for the benefit of, said candidate's campaign for nomination at a primary or election to an office or position, said candidate shall file statements according to the same schedule and in the same manner as is required of a campaign treasurer of a candidate committee under section 9-608; (3) the candidate does not receive or expend funds in excess of one thousand dollars; or (4) the candidate does not receive or expend any funds, including personal funds, for the candidate's campaign. . . . The filing of a certification under this subsection shall not relieve the candidate from compliance with the provisions of this chapter. [Emphasis added.]

10. Respondent maintains that he was not a candidate at the time of the May 28 event because he had not yet been endorsed as the party's nominee. However, pursuant to General Statutes § 9-601(11), an individual is a candidate if he or she seeks the nomination for election or election to public office. Further, an individual is deemed to seek nomination for election or election if he has been endorsed or become ballot eligible, but also, if such individual has made expenditures or given such individual's consent to any other person to make expenditures with the intent to bring about such individual's nomination for election or election.

11. The invitation for the May 28 event, prepared by the Respondent's daughter in consultation with him, constitutes an expenditure made with the intent to bring about the Respondent's nomination within the meaning of General Statutes § 9-601b and 9-604. Additional expenditures were made to provide food for the event by Respondent and others. By making expenditures for the event to announce his running mate and authorizing others to do the same, on or about May 25, 2009 when the invitations were printed, Respondent became a "candidate" and had ten days within which to register as a candidate.
12. The Commission concludes that Respondent violated General Statutes § 9-604 by failing to register as a candidate within ten days of making or authorizing an expenditure, or by June 4, 2009.
13. The Respondent ultimately filed a Registration of Candidate (SEEC Form 1) and Certificate of Exemption from Forming a Candidate Committee (SEEC Form 1B), on or about August 3, 2009, indicating that his campaign for First Selectman would be solely financed by the Bridgewater Democratic Town Committee (hereinafter "BDTC") approximately two months late.
14. Turning to the attribution allegation, an attribution is required if an expenditure is made for any communication that "promotes the success or defeat of any candidate's campaign for nomination at a primary or election or solicits funds to benefit ...any committee."
15. The invitation at issue does not solicit funds, and by all accounts, no funds were solicited or collected in the invitation or at the event. Accordingly, the question is whether the phrase: "*Come meets Bills (sic) choice for a Democratic running mate*" is promotional of the success or defeat of Bill Stuart's nomination or election such that an attribution was required. The invitation does not mention the office Respondent was seeking, but Respondent was a 26 year incumbent First Selectman at the time of the invitation.
16. The Commission concludes that inviting people to meet his choice of running mate for the election promotes the success of his nomination or election, and accordingly, that the subject invitation should have contained an attribution.
17. It is concluded that Respondent violated General Statutes § 9-621(a) by distributing a campaign invitation that failed to include the required "paid for by" and "approved by" attribution.
18. The Commission notes the Respondent's good faith, if erroneous, belief that that the attribution requirement did not apply to him for the reasons stated above. Respondent, despite his long history as a candidate and elected official, has always been financed by the BDTC and has traditionally not made any expenditures or filed his candidacy until after receiving the town committee endorsement in July.

19. Turning to the business entity contribution allegation, 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.. ...

20. General Statutes § 9-622 provides, in pertinent part:

The following persons shall be guilty of illegal practices and shall be punished in accordance with the provisions of section 9-623:

...

(10) Any person who solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter;

21. On or about May 27, 2009, due to a forecast of inclement weather for the date of the May 28th event, the location of the event was changed from outdoors at the Respondent's home to the Fairfield County Hounds Hunt Club (hereinafter "FCHHC"), where Respondent is a member and one of four "masters," an officer of the club.
22. The fees for membership at the FCHHC range from a "social" membership of \$400 a year to a "full riding privileges" membership of \$3,100 a year. Respondent is a member with full privileges at FCHHC.
23. The FCHHC is a §501(e)(7) non profit corporation for tax purposes that owns, among other things, a small building in Roxbury, Connecticut, which includes a kitchen and an open room with tables and chairs for social functions.
24. According to the business agent of the FCHHC, the entity has no handbook, manual or printed procedures that address use of the facilities – by members or non members. The FCHCC does not maintain any log or record of use of the facilities, and further maintains that it has never charged for, advertised or offered to publicly rent or lease these facilities.
25. Furthermore, according to the business agent of FCHHC, in the past five years the FCHHC has allowed their facilities to be used for events by non members on other occasions. Further, from approximately 2003 through 2005, in each of those years, the Parent Teacher's Organization of Bridgewater has been allowed and has held events at the facilities at no charge, and exclusive of any membership requirement. Both the Complainant and Respondent corroborate the use of the FCHHC by non-members for civic functions.

26. Commission staff has previously issued Opinion of Counsel 2009-11, Propriety of Using Country Club for Town Committee Meetings, which opined, in part, that the use of a facility without charge, if offered to others on the same terms, would not be an impermissible business entity contribution.
27. The Commission concludes that since the evidence establishes that the FCHHC permits the use of its facilities by non members on the same terms, and without charge, including past uses by the complainant and an organization with which he is associated, no business entity contribution occurred on behalf the May 28, 2009 meet and greet hosted by Respondent. Accordingly, that allegation is dismissed as to the Respondent and the FCHHC.
28. 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.
29. 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.
30. 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.
31. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

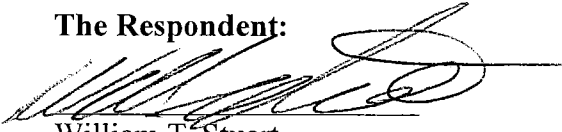
JUN 21 2010

ORDER

ENFORCEMENT COMMISSION

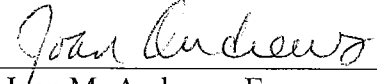
IT IS HEREBY ORDERED that the Respondent shall pay a civil penalty of one hundred and fifty dollars (\$150.00) to the State Elections Enforcement Commission by June 23, 2010 and shall henceforth strictly comply with the requirements of Connecticut General Statutes §§ 9-621(a) and 9-604.

The Respondent:



William T. Stuart
1 Curtis Road
Bridgewater, CT

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: _____

Dated: 6/21/10

Adopted this 23rd day of June, 2010 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission