

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Mel Thompson, Derby

File No. 2009-060

AGREEMENT CONTAINING CONSENT ORDER
AND PAYMENT OF A CIVIL PENALTY FOR VIOLATIONS OF
CONNECTICUT GENERAL STATUTES §§ 9-606, 9-608, 9-613 and 9-622.

This agreement by and between Anita Dugatto of the City of Derby, County of New Haven, State of Connecticut, hereinafter referred to as "Respondent," and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with section 9-7b-5a 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. Complainant filed this complaint with the Commission alleging a series of violations against Respondent and various other individuals relating to the Derby Democratic Town Committee. Allegations against the additional Respondents are treated under a separate agreement.
2. Respondent is the treasurer of the Derby Democratic Town Committee (hereinafter "DDTC").
3. Complainant's allegations are as follows:
 - a. Respondent was not formally appointed treasurer of the DDTC.
 - b. Respondent failed to report all expenditures made by the DDTC. Specifically, Respondent failed to report \$1,027.63 for the purchase of lawn signs pertaining to the April 21, 2009 referendum in the City of Derby, on the DDTC's April 10, 2009 filing and the subsequent filing due April 14, 2010, seven days preceding the April 21st referendum.
 - c. Respondent did not properly value and report labor donated to a March 29, 2009 breakfast fundraiser by an individual.
 - d. Respondent incorrectly attributed and reported an "in-kind" contribution of "labor donated" in the amount of \$60 by Complainant for design and maintenance of the DDTC website which was never made.

- e. Complainant re-filed the April 10, 2009 DDTC financial statement as the April 14, 2009 DDTC financial statement, thus causing the reported periods covered by the latter report to be false.
- f. Respondent, as DDTC treasurer, failed to keep internal records of the committee as required by law.
- g. Respondent failed to report over \$800 in receipts on the April 10th financial statement for "small contributors" relating to the a March 29, 2009 breakfast fundraiser.
- h. Respondent failed to report March and April 2009 mailings by the DDTC that were paid for by "in-kind" contributions by two individuals.
- i. Respondent failed to report on the DDTC April 10th 2009 filing an "in-kind" contribution she made, valued in excess of \$10,000, to the DDTC of office space and phone usage at her property located at 69 Elizabeth Street, Derby, for a phone bank used by DDTC members.

4. 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.***

...

(c) ***An individual who is designated as campaign treasurer of a committee shall be responsible for all duties required of him under this chapter until the committee is terminated.*** The campaign treasurer shall be relieved of such duties upon his permanent incapacity, resignation or replacement, provided a statement to that effect is filed with the proper authority, as provided in section 9-603. In the event of the death of the campaign treasurer or after a statement has been filed concerning

the campaign treasurer's incapacity, resignation or replacement, *if a deputy campaign treasurer has been designated, the deputy campaign treasurer shall be responsible for all duties required of the campaign treasurer under this chapter* until the candidate or chairman of the committee files with the proper authority a designation of a successor campaign treasurer. *If a deputy campaign treasurer has not been designated, the candidate or chairman shall designate a successor campaign treasurer and file such designation with the proper authority not more than ten days after the death of the campaign treasurer or the filing of the statement of his incapacity, resignation or replacement.* [Emphasis added.]

5. On April 21, 2008, the DDTC filed with the Commission an amended *Party Committee Registration* (SEEC Form 2) designating Sandra J. Watson as treasurer and Respondent as chairperson and deputy treasurer of the DDTC.
6. On or about August 4, 2008, Ms. Watson resigned as treasurer of the DDTC. Respondent was chairperson and deputy treasurer of the DDTC at the time of Ms. Watson's resignation.
7. The Commission finds that General Statutes § 9-602(c) requires a Chairman to designate a treasurer "not more than ten days after" a Treasurer's resignation, if a "...deputy campaign treasurer has *not* been designated." The Commission concludes that Respondent, as deputy treasurer of the DDTC at the time of the DDTC treasurer's resignation, was obligated to carry out the DDTC treasurer's duties pursuant to § 9-602(c).
8. Based on the findings in paragraph 7 above, the Commission concludes that, by operation of law, when Ms. Watson resigned on August 4, 2008, Respondent as DDTC designated deputy treasurer assumed the duties of treasurer, pursuant to § 9-602(c) and therefore did not violate § 9-602(c), as alleged.
9. General Statutes § 9-606 provides in pertinent part:
 - (a) 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. The campaign treasurer of each committee shall

deposit contributions in the committee's designated depository within fourteen days after receiving them. ...
[Emphasis added.]

10. 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.*** The statement shall be complete as of the last day of the month preceding the month in which the statement is required to be filed, except that for the statement required to be filed on the seventh day preceding the election, primary or referendum, ***the statement shall be complete as of seven days immediately preceding the required filing day. The statement shall cover a period to begin with the first day not included in the last filed statement.*** In the case of a candidate committee, the statement required to be filed in January shall be in lieu of the statement formerly required to be filed within forty-five days following an election....

(c) Content of statements. (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**; ... Each campaign treasurer shall include in such statement **(i) an itemized accounting of the receipts and expenditures relative to any testimonial affair held under the provisions of section 9-609 or any other fund-raising affair, which is referred to in subsection (b) of section 9-601a, and (ii) the date, location and a description of the affair.**

...

(4) Contributions from a single individual to a campaign treasurer in the aggregate totaling fifty dollars or less need not be individually identified in the statement, but a sum representing the total amount of all such contributions made by all such individuals during the period to be covered by such statement shall be a separate entry, identified only by the words "total contributions from small contributors".

[Emphasis added.]

11. Respondent admits that she did not disclose a DDTC expenditure in the amount of \$1,027.63, for lawn signs prior to the April 21, 2009 referendum, on either Summary Page of the April 10th and April 14, 2009 financial statements.
12. The Commission finds that Respondent did disclose this \$1,027.63 expenditure in Section S of each of the above *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20). The Commission further finds that Respondent failed to transmit this sum to the Summary Page on each report, which resulted in an inaccurate balance for each report.
13. The Commission concludes that pursuant to § 9-608(c)(C) financial statements shall include "... a statement of the balance on hand or deficit, as the case may be." The Commission concludes Respondent by excluding the \$1,027.63 within the balance on each Summary Page described in paragraphs 11 and 12 above, Respondent failed disclose the respective balance on hand thereby violating § 9-608(c)(C).

14. Regarding the allegation that Respondent failed to properly value and report the “in-kind” contribution of labor by an individual to the DDTC for its March 10, 2009 breakfast fundraiser, Respondent explained that the individual who donated the labor was a professional chef, and therefore she estimated the value of his labor at \$150 for the fundraiser. Further, that Respondent explained that she believed in good faith that the \$150 value was what an individual would make to cater the breakfast fundraiser had they been hired to do so.
15. The Commission finds with regard to the “in-kind” contribution described in paragraph 14 above that Respondent properly disclosed this contribution on the DDTC’s April 10, 2009 financial statement. The Commission further finds that Respondent’s estimated value for the individual’s labor at the March 29, 2009 DDTC breakfast fundraiser was made in good faith to determine fair market value for the individual’s professional services and was not clearly erroneous, and therefore this allegation is dismissed.
16. Regarding the disputed “in-kind” contribution of “labor donated” in the amount of \$60 by Complainant for design and maintenance of the DDTC website, the Commission finds that there is conflicting evidence as to the nature of any “in-kind” contribution from the Complainant to the Respondent, as disclosed by Respondent on the April 10, 2010 DDTC financial statement.
17. The Commission finds that while Respondent and Complainant agree that there was no written contract between them regarding Complainant’s services described in paragraph 16 above, each disagrees as to what the specific duration and terms of any agreement were; what the specific nature of services to be provided, if any, were; and what the value of those services were. The Commission further finds that while each party concedes that Respondent designed and launched a DDTC website, neither can agree as to whether there were any continuing obligations or agreement between them.
18. The Commission, based on its findings described in paragraphs 16 and 17 above pertaining to the Complainant’s provision of services to the DDTC for web design and development, and the persisting underlying dispute between Complainant and Respondent regarding the same, declines to take any further action regarding this allegation.

19. Regarding the allegation that Respondent failed to accurately disclose the period covered by the DDTC April 14, 2010 financial statement, Respondent admits that she failed to update the “period covered” for the 7th Day Preceding the April 21st Referendum financial statement when she copied her April 10th financial statement to make the Referendum Report.
20. The Commission finds that the period covered for the April 14, 2009 DDTC financial statement should have been reported as April 1, 2009 through April 7, 2009. The Commission concludes that pursuant to General Statutes § 9-608(a)(1) that financial statements “shall be complete,” and therefore a failure to provide the dates for the period covered by a financial statement is not a complete report.
21. The Commission concludes that by failing to disclose the correct period covered by the April 14, 2009 DDTC financial statement Respondent did not file a complete report and therefore violated General Statutes § 9-608(a)(1).
22. Regarding the allegation that Respondent failed to disclose small contributions pertaining to the March 29, 2010 DDTC breakfast fundraiser, Respondent asserts that based on receiving contributions preceding and at the March 29, 2009 event that deposits were made at different times and therefore disclosure of such contributions were not made simultaneously. Respondent provided documentary evidence of bank deposits and contribution ledgers to support this assertion.
23. The Commission finds that Respondent disclosed \$60 from small contributors and \$200 in itemized contributions, or a total of \$260, for the March 29, 2009 breakfast fundraiser on the April 10, 2009 DDTC financial statement.
24. The Commission further finds that an additional \$602 from “small contributors” was disclosed by the Respondent on an amended April 14, 2010. Respondent claims that she disclosed a total of \$862 raised at the March 29, 2009 breakfast on the April 10th and April 14th DDTC financial statements. Because the Respondent provided documentary evidence pertaining to the small contributions in question, the Commission dismisses the allegation pertaining to Respondent’s failure to disclose \$800 for a DDTC breakfast fundraiser.

25. Regarding the allegation pertaining to Respondent's failure to keep internal records of the DDTC, the Commission finds that Respondent produced for inspection in connection with its investigation of this complaint the following DDTC records: the names and addresses of individual contributors, amounts of tickets purchased for a fundraiser, whether such contributors paid by cash or check, as well as deposit slips, receipts, copies of checks and calculator tapes, relating to record keeping for the DDTC for periods that she has served as DDTC treasurer.
26. The Commission concludes based on the finding described in paragraph 25 above that Respondent maintained internal records as Treasurer of the DDTC, as required by General Statutes §§ 9-606(a)(5) and 9-607(f). The Commission concludes therefore that Respondent did not violate §§ 9-606(a)(5) and 9-607(f) as alleged.
27. Regarding the allegation that respondent failed to report DDTC expenditures totaling \$1,776.00 for lawn signs prior to the April 21, 2010 referendum, Respondent provided evidence that the signs were in fact paid for with two committee checks to Zip Mail totaling \$1,776.00. The Commission concludes therefore that Respondent did not violate General Statutes § 9-608 by failing to report as "in-kind" contributions from two individuals expenditures for referendum lawn signs as alleged.
28. Regarding the allegation that Respondent violated General Statutes §§ 9-606 and 9-608 by failing to report an "in-kind" contribution of office space and equipment to the DDTC prior to an April 21, 2009 referendum, Respondent admits that her residence at 69 Elizabeth Street was used by the DDTC for a phone bank prior to the April 21, 2009 referendum. Respondent further admits that her telephone and electricity were used during several occasions for this purpose. Respondent denies the alleged \$10,000 value of this "in-kind" contribution and that any phone bank equipment was used during these occasions. Rather, Respondent asserts that participating DDTC volunteers used their own cell phones to make calls.
29. The Commission finds that Respondent disclosed a March 25, 2009 "in-kind" contribution with the description of a phone bank in the amount of \$50 which was reported in Section M of the DDTC April 10, 2009 SEEC Form 20. Respondent claims that this disclosure and valuation was a good faith, fair market estimate for the use of her residence by DDTC volunteers leading up to the referendum and for a phone bank as described above.

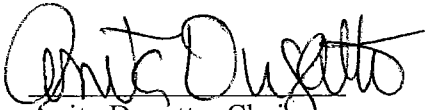
30. The Commission, based on the above disclosure, and corroboration by individuals as to the use of private cell phones during these phone banks as opposed to professional equipment, dismisses the allegation pertaining to a failure to disclose the "in-kind" contribution by Respondent of her residence for use as a phone bank by the DDTC. Further, the Commission finds, under these facts and circumstances, that Respondent made a good faith valuation of an "in-kind" contribution, and therefore dismiss this allegation that was not clearly erroneous.
31. The Respondent admits that she provided use of her third floor apartment at 69 Elizabeth Street which serves as her personal residence to the DDTC for use as a phone bank prior to the April 21, 2009 referendum in the City of Derby. Respondent further admits that she believed that the use of her personal residence had a value of less than \$400 and that such use was permissible.
32. The Commission finds that the provision of a personal residence for a gathering of party committee members for volunteer activities is permissible. Further, the Commission finds that such provision of space for phone banking activities constitutes use for a party committee gathering and not an in-kind contribution to the extent the cost does not exceed \$400 in the calendar year to the host for use of their personal residence. *See* General Statutes §§ 9-601a (b) (5) and 9- 608 (c).
33. The Commission concludes, based on the findings as described in paragraph 32 above, that the Respondent's provision of her individual residence for a party committee gathering prior to the April 21, 2009 referendum in the City of Derby was permissible, and therefore this allegation is dismissed.
34. 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 Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
35. 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.
36. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her pertaining to this matter.

ORDER

IT IS HEREBY ORDERED THAT that Respondent shall henceforth strictly comply with General Statutes §§ 9-606 and 9-608 and pay a civil penalty in the amount of three hundred and fifty dollars (\$350.00) on or before November 15, 2010.

Respondent

For the State of Connecticut



Anita Dugatto, Chair
Derby Democratic Town Committee
69 Elizabeth Street
Derby, Connecticut

BY:



Shannon Clark Kief, Esq.
Legal Program Director &
Authorized Representative
of the State Elections
Enforcement Commission
20 Trinity St., Suite 101
Hartford, Connecticut

Dated: _____

Dated: 11-12-10

Adopted this 17th day of November, 2010 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission