

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Victor L. Harpley, Cromwell

File No. 2010-013

**AGREEMENT CONTAINING CONSENT ORDER FOR
VIOLATIONS OF GENERAL STATUTES**

This Agreement, by and between Mark Corvo, hereinafter referred to as the “Respondent,” of the Town of Cromwell, County of Middlesex, State of Connecticut and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with General Statutes § 4-177(c) and section 9-7b-54 of the Regulations of Connecticut State Agencies.

In accordance herewith, the parties agree that:

1. Respondent was a candidate for Board of Selectman at the November 3, 2009 election in the Town of Cromwell.
2. On August 10, 2009 Respondent filed a *Registration by Candidate* (SEEC Form 1) with the Cromwell town clerk indicating that he was exempt from forming a candidate committee, and a *Certification of Exemption from Forming a Candidate Committee* (SEEC Form 1B) indicating that he would fund his campaign entirely from his own funds and that he would not request or receive contributions from other individual or committees.
3. Yeske for Board of Selectman (hereinafter “Yeske Committee”), was the candidate committee of Bill Yeske, at the November 3, 2009 Cromwell election.
4. Complainant alleged that Respondent allowed the Yeske Committee to pay for a robocall promoting his candidacy, as well as candidates Stephen E. Bayley, Ann Halibozek, and Bill Yeske.
5. Specifically, Complainant alleged that Respondent, along with Mr. Bayley and Ms. Halibozek, violated General Statutes §§ 9-616 and 9-621 by allowing their names to be used in a robocall which promoted all four candidates, but was paid for solely by the Yeske Committee.¹

¹ Complainant also alleged that Respondent participated in a scheme to deface a campaign sign. However, the aforementioned did not allege a violation within the Commission’s jurisdiction pursuant to General Statutes § 9-7b, and therefore is not addressed by this agreement.

6. The Commission addresses allegations in this complaint as they pertain to individuals other than Respondent under separate respective documents.
7. The content of the robocall that is subject of this complaint follows:

Hi this is First Selectman Jerry Shingleton calling to remind you to vote on Tuesday between 6:00 AM to 8:00PM in Cromwell High School on Evergreen Road. Interested in career service levels, continue to manage government in a business context, to eliminate waste and to hold people accountable, we need real leadership on the Board of Selectman, with no strings attached. Vote for new energy, new ideas and new faces. Vote for Bill Yeske and his teammates Steve Bayley, Mark Corvo, and Ann Halibozek. Thank you very much. Paid and Authorized by Bill Yeske for Board of Selectman, (860) 635-6763.

There is no dispute that Respondent gave the Yeske Committee permission to use his name in a robocall with the purpose of promoting his candidacy.

8. The Yeske Committee reported an expenditure for the robocall that is the subject of this complaint on its January 10th Itemized Campaign Finance Disclosure Statement (SEEC Form 20). The aforementioned was disclosed as a November 4, 2009 expenditure to Landmark Strategies of Springfield, Virginia in the amount of \$215.76 with the description “robo calls to citizens.”
9. General Statutes § 9-616 provides in pertinent part:

(a) A ***candidate committee shall not make contributions to***, or for the benefit of, (1) a party committee, (2) a political committee, (3) a committee of a candidate for federal or out-of-state office, (4) a national committee, or (5) ***another candidate committee*** except that (A) a pro rata sharing of certain expenses in accordance with subsection (b) of section 9-610 shall be permitted, and (B) after a political party nominates candidates for election to the offices of Governor and Lieutenant Governor, whose names shall be so placed on the ballot in the election that an elector will cast a single vote for both candidates, as prescribed in section 9-181, an expenditure by a candidate committee established by either such candidate that benefits the candidate committee established by the other such candidate shall be permitted. ...

[Emphasis added.]

10. Pursuant to General Statutes § 9-622, “illegal practices” include:

...
(10) Any person who solicits, makes or *receives a contribution* that is otherwise *prohibited by any provision of this chapter*. ...
[Emphasis added.]

11. Upon investigation, the Commission finds that the robocall, described in paragraph 7 and 8 above, promoted Respondent’s candidacy for Cromwell Board of Selectman, while being paid for exclusively by Yeske Committee.² The Commission further finds that this in-kind contribution from the Yeske Committee to Respondent was prohibited by General Statutes § 9-616 (a).

12. The Commission concludes, for the reasons detailed in paragraph 11 above, that Respondent violated §§ 9-616 (a) and 9-622 by receiving a contribution from the Yeske Committee that was a prohibited contribution by a candidate committee.

13. Respondent claims that he was unaware that coordinating an expenditure with a candidate committee, by granting permission for his name to be used in a robocall, without reimbursing that committee a *pro rata* share for the total expenditure, was prohibited by General Statutes §§ 9-616 (a) and 9-622(10).

14. Respondent, as detailed in paragraph 2 above, filed an exemption from forming a candidate committee for the November 3, 2009 election with the Cromwell Town Clerk on August 12, 2009.

15. 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

² The Commission notes that had the cost of the robocall been divided *pro rata* among the candidates supported it would have been permissible pursuant to General Statutes §§ 616 (a) (5) and 9-610 (b) and that such expense sharing would have amounted to approximately \$53.94 *per* candidate.

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: ... (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. If the candidate no longer qualifies for the exemption under any of these conditions, the candidate shall comply with the provisions of subsection (a) of this section, not later than three business days thereafter and shall provide the candidate's designated campaign treasurer with all information required for completion of the treasurer's statements and filings as required by section 9-608. ... The filing of a certification under this subsection shall not relieve the candidate from compliance with the provisions of this chapter.***

16. The Commission has in the past had opportunity to apply General Statutes § 9-604. *See In the Matter of a Complaint by Daniel R. Gaita*, File No. 2009-083, Bethel, and *In the Complaint by Margaret A. West, Oxford*, File No. 2009-099. In *Gaita* the Commission determined that while failing to amend a registration is a violation, it nevertheless declined to levy a civil penalty where the violations were unintentional, as is the case herein. *See Gaita*. Furthermore, consistent with *West*, where an individual has failed to amend a registration statement, and the error is “a good faith error rather than an intentional violation of the law,” the Commission has found violations of § 9-604, while not seeking civil penalties against Respondents. *See West*.

17. The Commission finds that because Respondent received an in-kind contribution of a robocall, as detailed in paragraphs 7 and 8 above, and therefore no longer qualified for the exemption from forming a candidate committee pursuant to § 9-604. The Commission further finds, and the Respondent does not dispute, that the Respondent did *not* amend his registration with the Cromwell Town Clerk's office after receiving the aforementioned contribution from the Yeske Committee.
18. The Commission concludes, for the reasons stated in paragraph 17 above, that by failing to amend his SEEC Form 1b after no longer qualifying for an exemption from forming a candidate committee, Respondent violated General Statutes § 9-604.
19. Finally, and consistent with its prior decisions in *Gaita* and *West*, as discussed herein, while the Commission declines to levy a civil penalty pertaining to the aforementioned violation of General Statutes § 9-604, under these specific circumstances, it nevertheless concludes that this agreement serves to instruct Respondent as to the necessity to amend any candidate registration statement if he no longer qualifies for exemptions under any of the conditions for which he had previously qualified for such exemption. General Statutes § 9-604.
20. General Statutes § 9-621 provides in pertinent part:

(a) No individual shall make or incur any expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate's agent, no group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee shall make or incur any expenditure, and ***no candidate or committee shall make or incur any expenditure*** including an organization expenditure for a party candidate listing, as defined in subparagraph (A) of subdivision (25) of section 9-601, 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 promotes or opposes any political party 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;*** (C) in the case of a party committee, the name of the committee; or (D) in the case of a group of two or

more individuals that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee, the name of the group and the name and address of its agent, **and (2) the words "approved by" and the following:** (A) In the case of an individual, group or committee other than a candidate committee making or incurring an expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate's agent, the name of the candidate; **or (B) in the case of a candidate committee, the name of the candidate.**

(b) In addition to the requirements of subsection (a) of this section:

...

(3) **No candidate or candidate committee** or exploratory committee established by a candidate shall **make or incur any expenditure for automated telephone calls which promote the success of such candidate's campaign for** nomination at a primary or **election** or the defeat of another candidate's campaign for nomination at a primary or election, **unless the candidate's name and voice are contained in the narrative of the call, before the end of such call.**

[Emphasis added.]

21. The Commission finds that the robocall, as described in paragraph 7 above, did *not* include the voice of Respondent in the narrative of the call as required by General Statutes § 9-621 (b) (3). The Commission concludes therefore that Respondent violated § 9-621, by failing to include his voice in the aforementioned robocall.
22. 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 Regulations of Connecticut State Agencies § 9-7b-56.
23. It is understood 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.

24. 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 challenge or contest the validity of this Agreement or Order hereinafter stated.

25. Upon the Respondent's agreement with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes §§ 9-604, 9-616, 9-621 and 9-622.

The Respondent:

By: 

Mark Corvo
382 Main Street
Cromwell, CT 06416

For the State Elections Enforcement Commission:

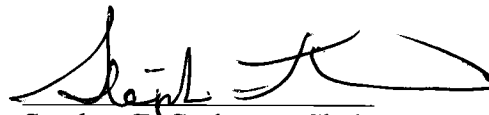
By: 

Michael J. Brandi, Esq.
Executive Director and General Counsel
and Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, CT 06106

Dated: _____

Dated: 5/18/12

Adopted this 23rd day of May, 2012 at Hartford, Connecticut



Stephen F. Cashman, Chair
By Order of the Commission