

In Re David Scribner 2008

File No. 2010-018

AGREEMENT CONTAINING CONSENT ORDER AND RESTITUTION PAYMENT  
FOR VIOLATIONS OF CONNECTICUT GENERAL STATUTES §9-607(g)(2)(L) and  
REGULATIONS OF CONNECTICUT STATE AGENCIES § 9-706-2(b)(3).

This agreement, by and between David Scribner and Peter Scalzo of the Town of Brookfield, County of Fairfield, State of Connecticut, hereinafter referred to as the Respondents, 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 David Scribner is the incumbent State Representative from the 107<sup>th</sup> General Assembly District, and Respondent Peter Scalzo was the Treasurer of David Scribner 2008, the candidate committee formed to finance David Scribner's re-election campaign in the November 2008 state election.
2. Respondent Scribner was a participating candidate in the Citizens' Election Program, applied for and received a grant in the amount of \$24,972.88 from the Citizens' Election Fund for said election. Pursuant to the Commission's 2008 General Assembly Audit Program, Commission staff determined that David Scribner 2008 had made payments for services to a relative of the candidate, and at its February 17, 2010 regular meeting, the Commission voted to initiate an investigation into the matter.
3. Connecticut General Statutes §9-607(g) provides, in pertinent part:

(2) Unless otherwise provided by this chapter, any campaign treasurer, in accomplishing the lawful purposes of his committee, may pay the expenses of: . . .  
(L) compensation for campaign or committee staff, fringe benefits and payroll taxes, *provided the candidate and any member of his immediate family shall not receive compensation*; . . .[Emphasis added.]
4. In addition, Regulations of Connecticut State Agencies § 9-706-2 provides, in relevant part:

(b) In addition to the requirements set out in Section 9-706-1 of the Regulations of Connecticut State Agencies, participating candidates and the treasurers of such participating candidates shall comply with the following Citizens' Election Program requirements. *Participating candidates and the treasurers of such participating candidates shall not spend funds in the participating candidate's depository account for the following:*

  1. Personal use, as described in Section 9-607(g)(4) of the Connecticut General Statutes;

2. The participating candidate's personal support or expenses, such as for personal appearance or the candidate's household day-to-day food items, supplies, merchandise, mortgage, rent, utilities, clothing or attire, even if such personal items (such as the participating candidate's residence, or business suits) are used for campaign related purposes;

3. ***Payments to the participating candidate or the participating candidate's family members, including: a participating candidate's spouse, civil union partner, sibling, child, grandchild, parent, grandparent, aunt, uncle; or the participating candidate's spouse's or civil union partner's sibling, child, grandchild, parent, grandparent, aunt, uncle; or the spouse, civil union partner, or child of any such individuals related to the participating candidate or his/her spouse or civil union partner, except payment(s) to the participating candidate or the participating candidate's committee worker or the participating candidate's family member serving as a committee worker if such individual is seeking reimbursement for a permissible expenditure for which he/she received authorization from the campaign treasurer to make such expenditure, and such participating candidate or committee worker provides the campaign treasurer with a written receipt or other documentary evidence from the vendor proving payment of the expenditure, as required by Section 9-607(j) of the Connecticut General Statutes; . . . [Emphasis added.]***

5. General Statutes § 9-706(b) further provides, in pertinent part, that the an application for a grant under the Citizens' Election Fund shall include a written certification that:

(7) The campaign treasurer of the candidate committee will expend all moneys received from the fund in accordance with the provisions of subsection (g) of section 9-607 and regulations adopted by the State Elections Enforcement Commission under subsection (e) of this section; . . .

6. David Scribner 2008 made two separate payments, one of \$900 on or about August 28, 2008, and one of \$500 on or about October 29, 2008, to the fifteen year old daughter of the candidate, a dependent relative residing in the candidate's household. The payments were supported by invoices that detailed the graphic design work performed.

7. Nevertheless, the compensation to Respondent Scribner's daughter, described in paragraph 6, above, violated General Statutes § 9-607(g)(2)(L) and Regulations of Connecticut State Agencies § 9-706-2. Respondents acknowledge that said payments violated the statute and regulation cited above, and have offered to return the total amount of the payments, one thousand four hundred dollars (\$1,400), to the Citizens' Election Fund.

8. Respondents maintain that there was no intent to personally benefit from the payment, but that they were simply not aware of the statute and regulation.

9. Connecticut General Statutes § 9-608 provides, in relevant 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; . . .

10. The expenditure identified on the Itemized Campaign Finance Disclosure Statement (SEEC Form 30), in the instances of both payments identified in paragraph 6, above, was reported as made to "KMS." The address of the payee listed is the same as the candidate's residence address.
11. By not identifying the full name of the payee in the Itemized Campaign Finance Disclosure Statements (SEEC Form 30) filed on September 24 and November 17, 2008, Respondent Scalzo violated Conn. Gen. Stat. § 9-608(c)(1)(C).
12. It should be noted that absent an audit involving a review of internal records for the campaign, the discrepancy and associated payments would not have been detected. The audit of this committee represents one of the thorough audits that the Commission is conducting of all candidate committees formed for the 2008 legislative races.
13. Respondents admit all jurisdictional facts and agree 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.
14. 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 Respondents and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
15. The Respondents waive:
  - 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 agreement or Order entered into pursuant to this agreement.
16. Upon the Respondents' compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against them pertaining to this matter.

**ORDER**


IT IS HEREBY ORDERED that Respondent Scribner shall refund the amount of the payments described in paragraph 6, above, one thousand four hundred dollars (\$1,400) to the Citizens' Election Fund on or before March 24, 2010, and Respondent Scalzo shall amend the relevant Itemized Campaign Finance Disclosure Statements (SEEC Form 30) to reflect the full name of the payee.

IT IS FURTHER ORDERED that the Respondents shall henceforth strictly comply with the requirements of Connecticut General Statutes §§9-607(g)(2)(L) and 9-608(c), and Regulations of Connecticut State Agencies § 9-706-2.

For the State of Connecticut

Dated: 3-16-10

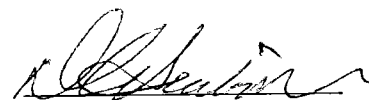
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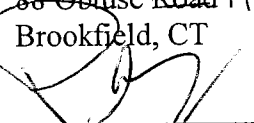
Dated: 3-12-10

The Respondents




David Scribner  
88 ~~Obtuse Road~~ Hill  
Brookfield, CT

Dated: 3-12-10



Peter Scalzo  
34-B Obtuse Road  
Brookfield, CT

Adopted this 24<sup>th</sup> day of March, 2010 at Hartford, Connecticut



Stephen F. Cashman, Chairman  
By Order of the Commission