

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re Audit Report for *Elect Mae Flexer*

File No. 2011-002

AGREEMENT CONTAINING A CONSENT ORDER

This Agreement by and between Joyce Ricci, campaign treasurer for the *Elect Mae Flexer* candidate committee, of the Town of Danielson, State of Connecticut, hereinafter referred to as the Respondent, and the undersigned authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance herewith, the parties agree that:

1. The Commission initiated an investigation on January 26, 2011 into whether Joyce Ricci, campaign treasurer for the *Elect Mae Flexer* candidate committee, in 2008 violated General Statutes §§ 9-607, 9-608, CEP program statutes, regulations or requirements based up on information discovered during the audit of *Elect Mae Flexer* candidate committee (hereinafter the "Committee"). The Committee participated in the Citizens' Election Program and received a grant of \$25,000 from the Citizens' Election Fund. The Committee returned \$3,413.31 to the CEF. In a review of the Committee's records, a Commission auditor concluded that the amount of surplus that the Committee returned to the Citizens' Election Fund did not match the amount that should have been returned according to the Committee's financial disclosure forms due to recurring Internet fee and recurring bank fees. These fees were incurred after the election but otherwise would have been permissible campaign expenditures. The Commission auditor also identified 23 expenditures for which backup documentation was not provided in a timely manner, totaling approximately \$6,492.57.
2. General Statutes § 9-607 (g)(1)(A)(i) lays out the "lawful purpose" of a candidate committee, specifying that a candidate committee may make expenditures to promote the nomination or election of the candidate who established the committee. Once the election has occurred, the candidate no longer seeks election or nomination, so the candidate committee generally should incur no additional expenditures with some exceptions.
3. All candidate committees must distribute any surplus remaining in their bank accounts before terminating and dissolving the committee. Qualified candidate committees must return all surplus funds to the Citizens' Election Fund. See General Statutes §§ 9-608 (e)(1); 9-608 (e)(1)(A)(ii).

4. Campaign treasurers are required to maintain records to justify the expenditures that they have made on behalf of the candidate committee. General Statutes § 9-607 (f) provides the following in relevant part:

The campaign treasurer **shall preserve** all internal records of transactions required to be entered in reports filed pursuant to section 9-608 for four years from the date of the report in which the transactions were entered. **Internal records required to be maintained in order for any permissible expenditure to be paid from committee funds include, but are not limited to, contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or other lawful purpose of the expenditure. . . .** In the case of a candidate committee, the campaign treasurer or the candidate, if the candidate so requests, **shall preserve** all internal records, cancelled checks, debit cards slips and bank statements for four years from the date of the last report required to be filed under subsection (a) of section 9-608. [Emphasis added.]

5. Furthermore, Regulations of Connecticut State Agencies § 9-706-1(b) provides in pertinent part as follows:

The absence of contemporaneous detailed documentation indicating that an expenditure was made to directly further the participating candidate's nomination for election or election **shall mean that the expenditure was not made to directly further the participating candidate's nomination for election or election, and thus was an impermissible expenditure.** Contemporaneous detailed documentation shall mean documentation which was created at the time of the transaction demonstrating that the expenditure of the qualified candidate committee was a campaign-related expenditure made to directly further the participating candidate's nomination for election or election to the office specified in the participating candidate's affidavit certifying the candidate's intent to abide by Citizens' Election Program requirements. Contemporaneous detailed documentation shall include but not be limited to the documentation described in section 9-607(f) of the Connecticut General Statutes. [Emphasis added.]

6. Qualified candidate committees also operate under strict limits as to the post-election expenditures they may make and how much they may spend. Qualified candidate committees for General Assembly seats, for example, may spend no more than \$500 for thank you notes and other post-election communications. See Regulations of Connecticut State Agencies § 9-706-2 (a) (13).
7. The Commission's investigation of the Committee showed that the Committee made several expenditures months after the election had occurred. Although the Committee

8. As a result of the Committee keeping this bank account open, the Committee incurred \$160 in maintenance fees for the account. The Committee also had an annual renewal of \$83 for the campaign website that was automatically charged against the account. These post-election expenditures totaled \$243.
9. General Statutes § 9-606 (a)(2) – (4) requires campaign treasurers to make and report all expenditures, including those incurred but not yet paid, of the relevant committees for which they serve as treasurer and file the financial disclosure documents with the appropriate repository. *See* General Statutes §§ 9-606 (a) (2)-(4) (imposing affirmative duty on treasurer to file periodic reports and account for all expenditures). *See also* General Statutes § 9-608 (c) (1) (C) (mandating that campaign finance disclosure statements must include itemized accounting of each expenditure).
10. The General Assembly has vested the Commission with the authority to “inspect or audit at any reasonable time and upon reasonable notice the account or records of any campaign treasurer or principal campaign treasurer, as required by chapter 155 or 157[.]” General Statutes § 9-7b (a) (5). The Commission also has the authority to subpoena documents and seek enforcement of its subpoenas at the Superior Court in Hartford. *See* General Statutes § 9-7b (a) (1).
11. After the initiation of this enforcement action, the candidate provided additional documentation to the Commission’s investigator to support the expenditures for which auditors lacked adequate, contemporaneous, detailed documentation.
12. The Commission concludes that by failing to provide the documentation to justify these expenditures in a timely manner during the course of the audit process the Respondent violated General Statutes §§ 9-606 (a) (2) – (4).
13. 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 into after a full hearing and shall become final when adopted by the Commission.
14. 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.

15. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her concerning this matter or any other matters that were the subject of the Final Audit Report for the 2008 *Elect Mae Flexer* campaign.

16. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if the same becomes necessary.

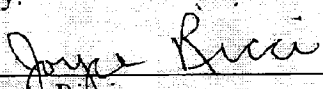
ORDER

IT IS HEREBY ORDERED THAT the Respondent shall pay a civil penalty of \$443.00 to the Commission to settle this matter and shall henceforth strictly comply with the requirements of General Statutes §§ 9-606, 9-607, and 9-608 as well as agency regulations governing the Citizens' Election Program.

IT IS HEREBY FURTHER ORDERED THAT the Respondent will pay in satisfaction of the above civil penalty two hundred dollars (\$200.00) on or before November 16, 2011, and that Respondent will pay the remainder of the civil penalty in the amount of two hundred forty three dollars (\$243.00) on or before, December 7, 2011, at which time this matter will be closed.

The Respondent For the State of Connecticut

By:



Joyce Ricci
Danielson, Connecticut

By:

Shannon Clark Kief
Legal Program Director and Authorized
Representative of the State
Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut 06106

Dated:

11/15/11


Dated: _____

Adopted this _____ day of _____, 2011 at Hartford, Connecticut by vote of the Commission.

Stephen F. Cashman, Chairman
By Order of the Commission

ORDER

IT IS HEREBY ORDERED THAT this matter shall be closed. The Commission received a facsimile copy of the signed document accepting the terms of the consent agreement from respondent as well as payment for the total civil penalty and ordered that that matter would be closed upon receipt of the original document within 10 days. Due to an administrative oversight, the original copy of the signed agreement was never received by the Commission and executed by Commission representatives. The Respondent, however, completed the terms of the consent agreement, and the matter is closed.


Anthony J. Castagno, Chairperson
By Order of the Commission