

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Myrna E. Watanabe, Harwinton

File No. 2011-140B

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Michael Criss, hereinafter referred to as the "Respondent," of the Town of Harwinton, 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. In 2011, the Respondent was a candidate for First Selectman of Harwinton and Jon Truskauskas was a candidate for office as one of the Harwinton Selectmen.
2. Mr. Truskauskas filed his candidate registration with a SEEC 1B, reporting that his campaign was solely funded through a slate committee named "Criss/Truskauskas 2011."
3. Prior to the general election, the Respondent controlled an exploratory committee supporting his candidacy named the "M.C. Exploratory Committee."
4. The Respondent subsequently registered his purported candidate committee, named "Criss/Truskauskas 2011." (the "C/T Committee")
5. Lisa Luciano served as treasurer for both the M.C. Exploratory Committee and the C/T Committee.
6. The C/T Committee never registered as a slate committee. The C/T Committee registered and filed as a candidate committee and listed the Respondent as the sole supported candidate.
7. In truth and in fact, the C/T Committee was formed to support the candidacies of both the Respondent and Mr. Truskauskas.
8. The M.C. Exploratory Committee distributed approximately \$3,000.00 of surplus funds to the C/T Committee, which is prohibited under § 9-608 (f) unless the C/T Committee existed solely to promote candidacy of the Respondent.
9. The Harwinton Republican Town Committee ("HRTC") made a total of \$3,000.00 of contributions to the C/T Committee, which is prohibited under § 9-617 (c) (2), which places

the applicable contribution limit at \$1,500.00 if the C/T Committee were a properly registered political slate committee.

10. The Respondent has cooperated fully with the investigation into this matter.

11. General Statutes § 9-602 (a) reads, in pertinent part:

Except with respect to an individual acting alone, or with respect to a group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate, 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 has filed a certification in accordance with the provisions of section 9-604. 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. [Emphasis added.]

12. General Statutes § 9-604 reads, 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. 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. If the candidate no longer qualifies for the exemption due to the condition stated in the candidate's certification but so qualifies due to a different condition specified in this subsection, the candidate shall file an amended certification with the proper authority and provide the new condition for the candidate's qualification not later than three business days following the change in circumstances of the financing of 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.]*

13. The definition of "candidate committee" specifically restricts its legal purpose to supporting the candidacy of a single candidate. General Statutes § 9-601 (4) reads:

"Candidate committee" means any committee designated by a *single candidate*, or established with the consent, authorization or cooperation of a candidate, for the purpose of a single primary or election and to aid or *promote such candidate's candidacy alone* for a particular public office or the position of town committee member, but

does not mean a political committee or a party committee [Emphasis added.]

14. General Statutes § 9-601 (28), in pertinent part:

“Slate committee” means a political committee formed by two or more candidates for nomination or election to any municipal office in the same town, city or borough, or in a primary for the office of justice of the peace or the position of town committee member, whenever such political committee will serve as the sole funding vehicle for the candidates' campaigns.

15. Pursuant to General Statutes §§ 9-602 and 9-604, and with certain exceptions, individuals must register a candidate committee *or* file an exemption from forming such a committee with the respective town clerk if they are candidates for municipal office before receiving, soliciting and expending funds for their election.

16. The Respondent admits that he failed to properly form and register a candidate committee *or* file an exemption from forming such a committee with the Harwinton town clerk in violation of §§ 9-602 and 9-604.

17. While the Commission and Respondent agree that such violations represented a good faith error on the part of the Respondent, the Respondent acknowledges that this violation helped contribute to the other violations related to the M.C. Exploratory Committee and the C/T Committee as described above.

18. The Respondent agrees and understands that a candidate committee, as defined in General Statutes § 9-601 (4), is only permitted to support single and not multiple candidates.

19. The Respondent agrees and understands that the distribution from the M.C. Exploratory Committee to the C/T Committee was prohibited under § 9-608 (f) because the C/T Committee was not a legally formed candidate committee as it did not exist solely to promote candidacy of the Respondent.

20. Connecticut General Statutes § 9-7b (a) (2) provides that the Commission may assess a civil penalty of two thousand dollars per offense against any person found in violation of Chapter 155. Pursuant to Regulations of Connecticut State Agencies §9-7b-48, in determining the amount of a civil penalty, the Commission shall consider, among other mitigating and aggravating factors:

(1) the gravity of the act or omission;

- (2) the amount necessary to insure immediate and continued compliance;
- (3) the previous history of similar acts or omissions; and
- (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.

21. Considering both the aggravating and mitigating facts in this matter, the Commission concludes that the specific facts of this case warrant a suspended civil penalty of for this Respondent.
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 Section 9-7b-56 of the Regulations of Connecticut State Agencies.
23. 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.
 - d. All right to challenge the validity of any vote by the Commission, pursuant to Section 9-7b-35 of the Regulations of State Agencies, as identified in this Agreement and Order.
24. The Respondent agrees and understands that any vote, pursuant to Section 9-7b-35 of the Regulations of State Agencies, as identified in this Agreement and Order, shall be conducted in accordance with the requirements of such regulation, which does not include the right for the Respondent to be present or offer argument or evidence. The Respondent agrees and understands that any such vote shall be considered final upon the Commission's adoption of the minutes recording such vote, and that any payment required under the Order shall be due no later than thirty days of the issuance of notice to the Respondent of such a vote having occurred.
25. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next available 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.


26. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings pertaining to this matter.

ORDER

IT IS ORDERED THAT:

- a. The Respondent shall henceforth strictly comply with the requirements of General Statutes §§ 9-602 and 9-604;
- b. The Respondent shall pay a penalty of two thousand dollars (\$2,000.00) for his violations of §§ 9-602 and 9-604, but that the payment of such penalty shall be suspended unless and until the Commission finds, pursuant to Section 9-7b-35 of the Regulations of Connecticut State Agencies, that there is reason to believe that the Respondent violated any of the General Statutes within the Commission's jurisdiction. Such payment shall remain suspended if such finding is limited to a violation or violations occurring prior to the year 2012; and
- c. Such suspended penalty shall be automatically vacated after the expiration of four years from the execution of this Consent Agreement and Order unless and until the Commission votes, pursuant to Section 9-7b-35 of the Regulations of Connecticut State Agencies, in the manner described above and prior to the expiration of such period.

The Respondent:



Michael Criss
274 Scoville Hill Rd.
Harwinton, CT 06791

For the State of Connecticut:

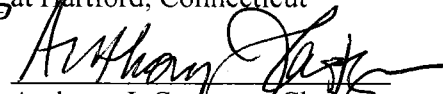
BY: 

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

Dated: 2-19-13

Dated: 2/28/13

Adopted this 20 day of March of 2013 at Hartford, Connecticut


Anthony J. Castagno, Chair
By Order of the Commission