

FILED SEEC

STATE OF CONNECTICUT 13 PM 12 13

STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Jack Testani,
Trumbull

File Nos. 2011-143

AGREEMENT CONTAINING CONSENT ORDER

This agreement, by and between Mary Markham, Town of Trumbull, County of Fairfield, State of Connecticut (hereinafter "Respondent") and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with the Regulations of Connecticut State Agencies § 9-7b-54 and General Statutes § 4-177 (c). In accordance herewith, the parties agree that:

1. Complainant, alleged that the Trumbull Democratic Town Committee (TDTC) Chair Nancy DiNardo violated General Statutes § 9-613, by receiving on behalf of the TDTC an in-kind contribution for the use of office space for its headquarters. Further, Complainant alleged that no expenditures were reported by the TDTC for its headquarters office space in violation of § 9-608.
2. Respondent was treasurer, of the TDTC at all times relevant to this complaint. Respondent was therefore required to file complete and accurate campaign finance statement with the Trumbull Town Clerk's office pursuant to General Statutes §§ 9-606 and 9-608.
3. Complainant alleged that Ms. Nancy DiNardo received the use of office space for TDTC headquarters from a business entity in violation of General Statutes § 9-613.
4. Complainant further alleged that Respondent failed to disclose and report an expenditure for TDTC headquarters as required by General Statutes § 9-608.
5. General Statutes § 9-608, provides in pertinent part:

(a) (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, ... 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, ...

(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; ... (D) ***an itemized accounting of each expense incurred but not paid,*** provided if the expense is incurred by use of a credit card, the accounting shall include secondary payees, and the amount owed to each such payee;
[Emphasis added.]

6. General Statutes § 9-613, provides in pertinent part:

(a) ***No business entity shall make any contributions or expenditures to, or for the benefit of, any candidate's campaign for election to any public office*** or position subject to this chapter or for nomination at a primary for any such office or position, ...
[Emphasis added.]

7. Section 9-7b-48 of the Regulations of Connecticut State Agencies, provides:

In its determination of the amount of the civil penalty to be imposed, the [State Elections Enforcement] Commission shall consider, among other mitigating or aggravating circumstances:
(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.
[Emphasis added.]

8. Upon investigation, it was determined that the office space was paid for by the TDTC in the amount of \$2,000, and reported as an expenditure by the committee on its January 10, 2012 Itemized Campaign Finance Disclosure Statement (SEEC Form 20).

9. The Commission finds therefore that the evidence does not support the allegation that the TDTC received prohibited business entity contributions in the form of use of office space for its headquarters, or that Ms. DiNardo solicited or received a prohibited business entity contribution on behalf of the committee in violation of § 9-613. The Commission therefore dismisses this allegation.

10. Upon investigation, the Commission finds that the office space in questions was rented by the TDTC for the period of September 7, 2011 through November 7, 2011 from Brennan Associates for headquarters in the amount of \$2,000.
11. The Commission further finds that this expenditure was reported on the January 10, 2012 TDTC SEEC Form 20. However, General Statutes § 9-608 (c) (1) (D) requires that statements include "...an itemized accounting of each expense incurred but not paid." Furthermore, § 9-608 would have required the TDTC to have filed two SEEC Form 20s on October 2011 and on the 7th day preceding the November 8, 2011 election after the September 7, 2011 contract for the use of the office space for headquarters as detailed herein.
12. The Commission notes that TDTC campaign finance records indicate that Respondent failed to report the \$2,000 expense incurred but not paid on either of the two aforementioned filings. Respondent claims that she did not report the expenditure that is subject of this complaint until January 10, 2011 because she first received a bill on November 12, 2011, and did not otherwise participate in the negotiation or arrangement for the contract to rent office space for use as TDTC headquarters.
13. The Commission concludes that the Respondents failure to disclose expenses incurred, but not paid, as detailed in paragraphs 11 through 12 above, on two occasions did not satisfy the requirements of § 9-608.
14. The Commission concludes, as described herein, that Respondent violated General Statutes § 9-608, a minimum of two times, in that she failed to report expenses incurred but not paid on the TDTC SEEC 20s filed for October 10, 2011 and the 7th day preceding the November 8, 2011 election. The TDTC had previously contracted for use of its headquarters as of September 7, 2011, and therefore § 9-608 necessitated the reporting of any expenses incurred but not paid pertaining to the aforementioned filings.
15. The Commission notes that Respondent has had four prior cases with the Commission, two of which pertained to violations of General Statutes § 9-608. Significantly, Respondent has had four prior cases with the Commission, *two of which* pertained to *violations of General Statutes § 9-608*. Specifically, Respondent was fined \$500.00 for violations of § 9-608 by failing to itemize receipts for a fundraiser in *Complaint of William Holden*, Trumbull, File No. 2007-369; and in *Complaint of Cynthia Penkoff*, Trumbull, File No. 2009-057 respondent violated § 9-608 by failing to account for individual contributions, agreeing at in each of the aforementioned cases to henceforth strictly comply with that statute.

16. Additionally, the Commission notes in a late filing case and a prior complaint, Respondent paid a civil penalty and caused a forfeiture of TDTC funds for additional violations of Chapter 155, General Statutes. *See respectively, In re Trumbull Democratic Women's' Club*, Secretary of the State Referral, File No. 2002-323NF and *In the Matter of JCJ Architecture, Inc.*, Hartford, File No. 2008-120 (Commission Initiated).
17. The Commission finds, for the reasons detailed in paragraphs 15 and 16 above, that Respondent had or should have had prior to this case, experience and prior knowledge which made her, or should have made her, amply aware of her various obligations and duties as a legally designated treasurer of the TDTC pursuant to General Statutes §§ 9-606 and 9-608.
18. Because of Respondent's previous history of violating § 9-608, the Commission stresses that civil penalty in the amount of five hundred dollars (\$500.00) *is directly linked to a consideration of past violations by Respondent*, pursuant to the Commission's discretion and authority. *See* Regs., Conn. State Agencies § 9-7b-48 (3) (for increased penalties based on similar past acts and omission by an individual).
19. 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 the Regulations of Connecticut State Agencies § 9-7b-56.
20. 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 Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
21. 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.
20. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent with respect to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent is reprimanded and shall henceforth strictly comply with the requirements of General Statutes §§ 9-606, 9-607 and 9-608.

IT IS HEREBY FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of five hundred dollars (~~\$500.00~~), on or before ~~October 24~~, 2012.

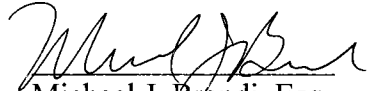
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NOVEMBER 14, 2012

For the State of Connecticut

Dated:

BY:

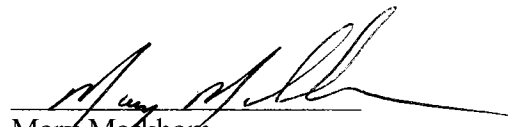


Michael J. Brandi, Esq.
Executive Director and General Counsel,
and Authorized Representative
of the State Elections
Enforcement Commission
20 Trinity Street
Hartford, Connecticut

The Respondent,

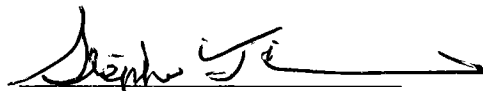
Dated:

BY:



Mary Markham
3 Stony Brook Circle
Trumbull, Connecticut

Adopted this 14th day of November, 2012 at Hartford, Connecticut by vote of the Commission.



Stephen Cashman, Chairman
By Order of the Commission

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ENFORCEMENT COMMISSION