

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

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In the Matter of a Referral by a SEEC Elections Officer

RESPONDENT:
Jonathan Kastner
35 Glen Grove Road
Deep River, CT 06417

File No. 2012-211NF

FINAL DECISION

This matter was heard as a contested case on March 26, 2013 pursuant to Chapter 54 of the Connecticut General Statutes, § 9-7b of the Connecticut General Statutes and § 9-7b-35 of the Regulations of Connecticut State Agencies, at which time Andrew Cascudo, Certified Legal Intern, and Attorney Patrick Lamb appeared on behalf of the State of Connecticut and the Respondent, Jonathan Kastner, appeared on his own behalf. Documentary and testimonial evidence was presented.

After careful consideration of the entire record, the following facts are found and conclusions of law are made:

1. Michael J. Brandi was designated as permanent Hearing Officer for hearings concerning alleged violations of General Statutes § 9-608 on March 21, 2012 by order of the State Elections Enforcement Commission.
2. The Respondent served as treasurer of the Deep River Democratic Town Committee from March 12, 2010 until March 11, 2013. *Stipulation of Facts, Signed by Attorney Lamb and Respondent Kastner on March 26, 2013; State's Exhibits 3 and 4.*
3. General Statutes § 9-608 (a) provides, in relevant part, as follows: "(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**, except that . . . (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, and (C) if the committee has made or received a contribution or expenditure in connection with any other election, a primary or a referendum, on the seventh day preceding the election, primary or referendum." (Emphasis added.)
4. General Statutes § 9-623 (b) provides as follows: "(1) If any campaign treasurer fails to file any statement required by section 9-608, or if any candidate fails to file either (A) a

statement for the formation of a candidate committee as required by section 9-604, or (B) a certification pursuant to section 9-603 that the candidate is exempt from forming a candidate committee as required by section 9-604, within the time required, the campaign treasurer or candidate, as the case may be, shall pay a late filing fee of one hundred dollars. (2) In the case of any such statement or certification that is required to be filed with the State Elections Enforcement Commission, the commission shall, not later than ten days after the filing deadline is, or should be, known to have passed, notify by certified mail, return receipt requested, the person required to file that, if such statement or certification is not filed not later than twenty-one days after such notice, the person is in violation of section 9-603, 9-604 or 9-608.”

5. On October 30, 2012, the Respondent was required to file a financial disclosure statement on behalf of the Deep River Democratic Town Committee per General Statutes § 9-608 (a) (1) (B), but did not. ***Stipulation of Facts.***
6. On November 16, 2012, Commission staff sent a letter to the Respondent, by certified mail, return receipt requested, stating that the Commission had not received a financial disclosure statement from him that was due on October 30, 2012. ***State’s Exhibit 6.*** The letter set forth a resolution passed by the Commission that in light of Storm Sandy, it would not be deemed a failure to file pursuant to General Statutes § 9-623 (b) (1), and thus the Commission would not seek the statutory \$100 late fee, if the filing was submitted within 21 calendar days of the date of the letter. ***State’s Exhibit 6.*** The letter warned that if the Respondent did not submit the statement within 21 calendar days of the date of the letter, the Commission may order a public hearing and he could be subject to a civil penalty of up to \$2,000. ***State’s Exhibit 6.*** The Respondent signed for the letter. ***State’s Exhibit 6.***
7. On January 14, 2013, Commission staff sent a letter to the Respondent, stating that the Commission had still not received a financial disclosure statement from him that was due on October 30, 2012. ***State’s Exhibit 7.*** The letter explained that the Respondent was subject to a civil penalty between \$200 and \$2,000 but that he could avoid further enforcement of the matter if he submitted the statement and a payment of \$600 by January 29, 2013. ***State’s Exhibit 7.*** The letter clarified that the demand amount was based on the Respondent’s previously delinquent filings in File Nos. 2011-162NF and 2011-164NF. ***State’s Exhibit 7.***
8. On February 15, 2013, notice of the March 26, 2013 hearing was sent to the Respondent by first-class mail with delivery confirmation tracking and receipt and by certified mail and regular mail at the address provided on the committee registration statement on file with the Commission. ***State’s Exhibits 1 and 3.***

9. On March 22, 2013, the Respondent filed the statement that was due October 30, 2012, making it 143 days late. **Stipulation of Facts; State's Exhibit 11.** The filing reflected no monetary receipts and expenditures in the amount of \$530.57. **State's Exhibit 11.**
10. The Respondent attended the March 26, 2013 hearing.
11. The Respondent admitted and acknowledged that his late filing represents a violation of General Statutes § 9-608 with civil penalties mandated by General Statutes § 9-623 in the range of \$200 to \$2,000. **Stipulation of Facts.** In addition, he waived any objections to any procedural irregularities related to Storm Sandy and the certified mail warning letter issued pursuant to General Statutes § 9-623 (b). **Stipulation of Facts.**
12. The Respondent also admitted and acknowledged that he has a prior history of late filing violations under General Statutes § 9-608, including those reflected in File Nos. 2011-162NF and 2011-164NF. **Stipulation of Facts.** He admitted and accepted that resolutions of these matters reflect two previous similar acts or omissions and could be considered in determining the amount of the civil penalty to be imposed in the instant matter. **Stipulation of Facts.**
13. On March 26, 2013, the Respondent signed an irrevocable waiver of his right to serve as a treasurer or a deputy treasurer for purposes of Chapters 155 and 157 of the Connecticut campaign finance statutes and waived his right to object to any order of the Commission imposing such ban, even if such ban is not based on a finding of an intentional violation. **State's Exhibit 14.**
14. It is concluded that the Respondent violated General Statutes § 9-608 (b) (1) by failing to timely file a financial disclosure statement on October 30, 2012.
15. Evidence was presented that Commission staff was persistent and rigorous in its efforts to contact the Respondent about the delinquent filing. **State's Exhibits 1, 6, and 7.**
16. General Statutes § 9-7b (a) (2) provides, in pertinent part, that the Commission shall have the power to levy a civil penalty not to exceed "two thousand dollars per offense or twice the amount of any improper payment or contribution, whichever is greater, against any person the commission finds to be in violation of any provision of chapter 155 or 157." The Commission may levy a civil penalty against any person only after giving the person an opportunity to be heard at a hearing. *See* General Statutes § 9-7b (a) (2).
17. General Statutes § 9-623 (b) (4) provides, in pertinent part, that "[t]he penalty for any violation of section . . . 9-608 . . . shall be a fine of not less than two hundred dollars or more than two thousand dollars or imprisonment for not more than one year, or both."

18. Section 9-7b-48 of the State of Connecticut Regulations provides, "In its determination of the amount of the civil penalty to be imposed, the 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."
19. It was recommended that the Commission consider the following as aggravating circumstances per § 9-7b-48, Regs., Conn. State Agencies: (1) Commission staff both informed the Respondent of his duties as treasurer and made diligent efforts to contact him about the missed filing; and (2) the Respondent was previously late in submitting two prior filings, exhibiting a history of similar acts or omissions.
20. It was recommended that the Commission consider the following as mitigating circumstances per § 9-7b-48, Regs., Conn. State Agencies: (1) the Respondent attended the March 26, 2013 hearing and submitted the late filing several days before the hearing, showing good faith in attempting to comply; and (2) the Respondent agreed to waive his right to serve as treasurer or deputy treasurer for purposes of the Connecticut campaign finance statutes.
21. In consideration of the factors listed above, it was recommended that the Commission: (1) prohibit the Respondent from serving as treasurer or deputy treasurer of any committee organized under Chapter 155 of the Connecticut General Statutes for a period of four years from the date of the Commission's final decision on this matter; and (2) assess a civil penalty against the Respondent in the amount of \$600.00 for his violation of General Statutes § 9-608 but suspend said penalty in light of his agreement to waive his right to serve as treasurer or deputy treasurer and waive said penalty upon the expiration of the four year prohibition on serving as treasurer or deputy treasurer of any committee organized under Chapter 155 of the Connecticut General Statutes.

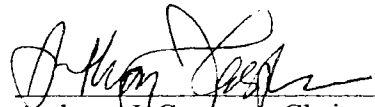
The following Order is adopted on the basis of these findings and conclusions:

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall be prohibited from serving as treasurer or deputy treasurer of any committee organized under Chapter 155 of the Connecticut General Statutes for a period of four years from the date of this final decision, pursuant to General Statutes § 9-7b (a) (3) (B) (ii).

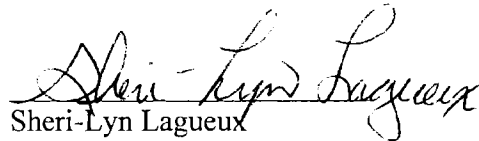
IT IS HEREBY ORDERED THAT the Respondent shall be assessed a civil penalty in the amount of \$600.00 pursuant to General Statutes § 9-7b (a) (2), which shall be suspended in light of his agreement to waive his rights to serve as treasurer or deputy treasurer of any committee organized under Chapter 155 of the Connecticut General Statutes for a period of four years from the date of this final decision. Upon satisfaction of the condition set forth above, the Commission shall not refer the matter to the Office of the Attorney General for any collection action.

Adopted this 15th day of May, 2013 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission

I certify the preceding final decision was sent to Jonathan Kastner, 35 Glen Grove Road, Deep River, CT 06417, first-class mail with delivery confirmation tracking and receipt and certified mail and regular mail on May 15, 2013.



Sheri-Lyn Lagueux
Clerk of the Commission