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SENDERS RECORD

STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by a SEEC Elections Officer

RESPONDENT:
Wayne H. Knight
351 River Road
Willington, CT 06279

File No. 2012-231NF

FINAL DECISION

The undersigned Hearing Officer heard the above-captioned matter as a contested case on March 27, 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, Wayne H. Knight, 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 has served as treasurer of Willington Democratic Town Committee from February 2001 to the present. ***Joint Exhibit 1; State's Exhibit 3; Testimony of Elections Officer Nancy Staniewicz.***

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 § 9-608 (b) provides, in relevant part, as follows: "**The statements required to be filed under subsection (a) of this section** and subdivisions (2) and (3) of

subsection (e) of this section, **shall not be required to be filed by**: . . . **(3) a party or political committee organized for ongoing political activities until such committee receives or expends an amount in excess of one thousand dollars for the calendar year except the statements required to be filed** on the tenth calendar day in the month of January and **on the seventh day preceding any election shall be so filed**. The provisions of this subsection shall not apply to state central committees or to the statement required to be filed by an exploratory committee upon its termination. **A committee which is exempted from filing statements under the provisions of this subsection shall file in lieu thereof a statement sworn under penalty of false statement, indicating that the committee has not received or expended an amount in excess of one thousand dollars.**" (Emphasis added.)

5. 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."

6. On October 30, 2012, the Respondent was required to file a financial disclosure statement on behalf of the Willington Democratic Town Committee per General Statutes § 9-608 (a) (1) (B), but did not. ***Joint Exhibit 1.***

7. 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 5; Testimony of Ms. Staniewicz.*** 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 5.*** 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 5.*** The Respondent signed for the letter. ***State's Exhibit 5; Testimony of Ms. Staniewicz.***

8. 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 6; Testimony of Paralegal Specialist Evelyn Gratacos.*** 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 $400 by January 29, 2013. ***State's Exhibit 6; Testimony of Ms. Gratacos.*** The letter clarified that the demand amount was based on the Respondent's previously delinquent filing in File No. 2011-166NF. ***State's Exhibit 6.*** The letter was sent by certified mail but returned to the Commission as unclaimed; it was also sent by regular mail. ***State's Exhibit 6; Testimony of Ms. Gratacos.***

9. On February 15, 2013, notice of the March 27, 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.***

10. On February 21, 2013, notice of the March 27, 2013 hearing was also sent to the Respondent electronically to the e-mail address provided on the committee registration statement on file with the Commission. ***State's Exhibits 3 and 9; Testimony of Ms. Gratacos.***

11. On March 27, 2013, the day of the hearing, the Respondent filed the statement that was due October 30, 2012. ***State's Exhibit 13; Testimony of Ms. Staniewicz.*** Because the committee had opted to not file statements for the filings due earlier in the year pursuant to General Statutes § 9-608 (b) since it had not received or expended monies in excess of $1,000, it was required to file a report covering all activity from January 1 through October 28, 2012, which it did. ***State's Exhibit 13; Testimony of Ms. Staniewicz.*** The activity included three expenditures that occurred in the period covered by the seventh day preceding the election filing, which totaled $200. ***State's Exhibit 13; Testimony of Ms. Staniewicz.*** There were no itemized receipts reported during the period covered by the seventh day preceding the election filing. ***State's Exhibit 13.***

12. The Respondent attended the March 27, 2013 hearing.

13. The Respondent testified that he regretted that the matter had gone this far in the proceedings. ***Testimony of Respondent Wayne Knight.*** He also noted that the total receipts and expenditures for the entire year totaled less than $1,000 and the only reason he remained treasurer was because no one else was willing to do it. ***Testimony of Mr. Knight.***

14. 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. ***Joint Exhibit 1.*** 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). ***Joint Exhibit 1.***

15. The Respondent also admitted and acknowledged that he has a prior history of a late filing violation under General Statutes § 9-608 and recorded in SEEC File No. 2011-166NF with a settlement payment of $200. ***Joint Exhibit 1.*** He admitted and accepted that resolution of this matter reflects a previous similar act or omission and could be considered in determining the amount of the civil penalty to be imposed in the instant matter. ***Joint Exhibit 1.***

16. It is concluded that the Respondent violated General Statutes § 9-608 (b) (1) (B) by failing to timely file a financial disclosure statement on October 30, 2012.

17. 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, 5, 6, 9; Testimony of Ms. Staniewicz; Testimony of Ms. Gratacos.***

18. Evidence was also presented that the Respondent had previously been noticed for a hearing for allegedly violating General Statutes § 9-608 by failing to file the seventh day preceding election filing due November 1, 2011. *See In the Matter of a Referral by the Campaign Disclosure and Audit Unit*, File No. 2011-166NF. ***State's Exhibits 10 and 11; Testimony of Ms. Staniewicz.*** Ultimately, the hearing was cancelled after the Respondent complied with the settlement demand, filing the report and paying a civil penalty of $200. ***State's Exhibit 11; Testimony of Ms. Staniewicz.***

19. 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).

20. 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."

21. 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."

22. It was recommended that the Commission consider the following as aggravating circumstances per § 9-7b-48, Regs., Conn. State Agencies: (1) the seventh day preceding the election filing is one of only two filings in which the committee is required to itemize all transactions and the Respondent had not yet submitted any itemized statements for the year so the filing reported the activity for the entire year, exhibiting the gravity of the failure to file timely; (2) the Respondent was previously late in submitting one prior filing, which exhibits a history of similar acts or omissions; and (3) Commission staff both informed the Respondent of his duties as treasurer and made diligent efforts to contact him about the missed filing.

23. 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 27, 2013 hearing and submitted the late filing that day, showing good faith in attempting to comply; and (2) the filing that was ultimately submitted showed very little activity, lessening the gravity of the delay in publicly disclosing the information.

24. In consideration of the factors listed above, it was recommended that the Commission assess a civil penalty against the Respondent in the amount of $500.00 for his violation of General Statutes § 9-608.

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

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall pay a civil penalty in the amount of $500.00, payable to the State Elections Enforcement Commission, within 30 days of notice of this decision, for violation of General Statues § 9-608, pursuant to General Statutes § 9-7b (a) (2).

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 Wayne H. Knight, 351 River Road, Willington, CT 06279, 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