

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Migdalia Castro, New Haven

File No. 2013-014

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Alberto Bustos, of the City of New Haven, State of Connecticut, hereinafter referred to as the Respondent, and the undersigned authorized representative of the State Elections Enforcement Commission enter into this agreement as authorized by Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance with those provisions, the parties agree that:

1. At all times relevant hereto, the Respondent was a “candidate” as that term is defined in General Statutes § 9-601 (11).
2. At all times relevant hereto, the Respondent was registered as a candidate for Alderman of New Haven’s Ward 14 with the New Haven Town Clerk. Such registration was filed with a SEEC form 1 and 1B reporting that the Respondent was exempt from forming a candidate committee because the Respondent was funding his campaign entirely from his own funds.
3. The Respondent made expenditures for two distinct written communications promoting his candidacy, both of which appeared in English and Spanish versions. Such personal expenditures by the Respondent totaled approximately \$360.00.
4. The first of the two communications was a flyer promoting the Respondent’s candidacy and which lacked any information regarding who authorized or paid for the communication (the “flyer”). The flyer did provide a number to call to receive information regarding absentee ballot information. Such number was the Respondent’s personal phone number.
5. The second of the two communications was a letter promoting the Respondent’s candidacy, which lacked any information regarding who paid for the communication (the “letter”). The letter did provide the Respondent’s home address and personal phone number. The letter was clearly written in the first person by the Respondent and signed “Your Neighbor, Alberto Bustos.” Although substantially similar, the English language version did not specify the Respondent’s address and instead simply stated “Street Address” through an inadvertent clerical error.

6. General Statutes § 9-621 (a), governing attributions on certain written political communications provides, in relevant part:

[N]o candidate or committee shall make or incur any expenditure ... for any written, typed or other printed communication, or any web-based, written communication, which promotes the success or defeat of any candidate's campaign for nomination at a primary or election or promotes or opposes any political party or solicits funds to benefit any political party or committee unless such communication bears upon its face (1) the words "paid for by" and the following: (A) In the case of such an individual, the name and address of such individual ... and (2) the words "approved by" and the following: (A) In the case of an individual, group or committee other than a candidate committee making or incurring an expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate's agent, the name of the candidate...

7. The Respondent agrees and understands that, in this context, General Statutes § 9-621 (a) requires disclosure concerning both who paid for and who approved political communications.
8. The Respondent agrees and understands that, as a municipal candidate making expenditures of his own funds to promote his candidacy, the face of any such communications must state that the communication was both approved by and paid for by the Respondent, followed by the Respondent's address.
9. For purposes of this Consent Order, the Parties agree that, whenever any communications governed by General Statutes § 9-621 (a) are issued in a language other than English, any such communication must include any required attribution in the same language or languages of the substance of the applicable political communication.
10. General Statutes § 9-7b (a) (2) (D) authorizes the Commission to impose a 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." General Statutes § 9-7b (a) (2) (D).

11. Connecticut General Statutes § 9-7b (a) (2) provides that the Commission may assess 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.” 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.

12. In consideration of the above factors, including, but not limited to, because the Respondent directly identified himself in the letter, as opposed to the flyer, and because such communication was made from personal funds, the Commission declines from seeking a penalty for such communication. However, unlike the letter, the flyer did not clearly identify either the authorship or who paid for the communication.

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 him concerning this matter.

16. It is understood and agreed by the parties to this Agreement that the Commission will consider this Agreement at its next available meeting and, if the Commission rejects it, the

Agreement will be withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if one becomes necessary.

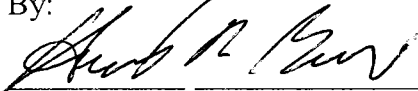
ORDER

It is hereby ordered that the Respondent pay as a civil penalty the amount of \$100.00 for the attribution violation for the flyer identified above. The Respondent further agrees henceforth to strictly comply with the requirements of General Statutes § 9-621.

The Respondent

For the State of Connecticut

By:



Alberto Bustos
133 Farren Avenue, 3FL
New Haven, CT 06513

By:

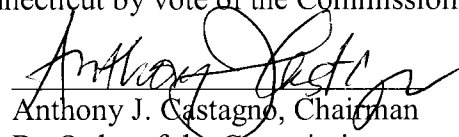


Michael J. Brandi, Esq.
Executive Director and General Counsel
and Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT 06106

Dated: _____

Dated: 6/10/13

Adopted this 19 day of June, 2013 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission