

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

SEEC initiated investigation of Ralph A. Lewis III, Treasurer for the Kelly for Senate 2012 Committee
File No. 2013-092

AGREEMENT CONTAINING A CONSENT ORDER AND PENALTY

The parties, Ralph A. Lewis III of Stratford, 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 summary, the Respondent (1) failed to return Citizens' Election Program ("CEP") grant surplus in a timely manner, which also constitutes a felony; (2) made a payment or payments for himself out of CEP funds that were prohibited due to his status as the participating candidate's son-in-law; (3) entered into a prohibited agreement for payment for himself upon receipt of a CEP grant; and (4) failed to file the April 10, 2013 committee report in a timely manner. In accordance with the above provisions, the parties agree that:

1. At all times relevant hereto, the Respondent was the treasurer of the Kelly for Senate 2012 committee, a Citizens' Election Program ("CEP") participating committee (the "Committee").
2. At all times relevant hereto, the Committee was the candidate committee of Kevin Kelly, an incumbent Senate candidate (the "Candidate").
3. At all times relevant hereto, the Respondent was the Candidate's son-in-law.
4. As of June 9, 2013, the Committee's last filed statement was an itemized statement accompanying the Citizens' Election Program grant application on October 18, 2012. At such time, the Committee reported \$9,706.12 on hand. On October 20, 2012, the Commission issued a grant for an unopposed Senate race to the Committee in the amount of \$26,982.00. After applying for and receiving the above CEP grant, the Respondent filed no campaign finance reports prior to the Commission exercising regulatory force from the Enforcement Unit.

5. The Respondent was required to return or distribute any Committee surplus no later than March 31, 2013. On or about May 24, 2013, in a call initiated by a SEEC staff member and related to the enforcement of an outstanding filing, the Respondent acknowledged he was aware of the existence of a significant unreturned surplus in the possession of the Committee. On June 10, 2013, the Respondent returned the outstanding surplus of \$21,227.43. The return of such surplus was made 71 days past the statutory deadline.
6. Although the distribution of the Committee's surplus remained late, on June 12, 2013 the Respondent filed a report on the distribution. Pursuant to General Statutes § 9-608 (e) (3), such report is due with the SEEC not later than seven days of the distribution of such surplus. As such, this report is contingent upon when and if such distribution occurs. Accordingly, the Respondent complied with this specific filing requirement.
7. Similar delays in the return of public grant funds have often indicated some form of misappropriation or misuse and have resulted in referrals to the Chief State's Attorney. According, SEEC staff undertook a significant review of the relevant financial records of the Committee. Such a review did not reveal any personal use of grant funds or other form of criminal misappropriation. However, the review did confirm two significant violations of the use of CEP grant funds or program rules. First, the \$2,600.00 in compensation that the Respondent paid himself out of CEP grant funds for his services as treasurer was illegal due to the fact that he was the Candidate's son-in-law. Second, the terms of such contract clearly identified that \$1,500.00 of such funds would be contingent "upon receipt of the Public Grant."
8. The Commission has declined to refer this matter to the Chief State's Attorney because the Respondent was able to supply Committee records, which he is required to maintain under General Statutes § 9-607 (f), to provide sufficient review to alleviate any further concerns as described above, including assurances that all surplus was eventually returned to the Citizens' Election Fund.
9. The Respondent acknowledges that he has a history of committing prior, now settled, violations as treasurer of the same Committee. In SEEC File No. 2012-108NF, the Respondent settled his first late filing violation for the fling due on July 10, 2012 for \$200.00. Subsequently, in SEEC File No. 2013-71SF, the Respondent settled a late supplemental filer violation for \$1,000.00, which was the maximum civil penalty after a hearing for such a violation. To put that matter in context, such filing was 222 days late, was the tardiest 2012 supplemental filing received by the Commission, and would have

likely revealed information relevant to the present matter. Lastly, in the Final Decision after a contested hearing in File No. 2013-032NF, the Respondent was found to have filed the January 10, 2013 filing 151 days late. The Order in such Final Decision imposed a four year ban on the Respondent serving as treasurer and a \$500.00 civil penalty, suspended and to remain uncollected so long as the Respondent complied with the ban upon him serving as treasurer. To put such 151 day delay in context, this was the tardiest January 10, 2013 filing received by the Commission and would have likely revealed information relevant to the present matter.

10. General Statutes § 9-608 (e) (1) sets forth the deadline for distributing surplus funds from a candidate committee after a general election and provides, in relevant part:

[N]otwithstanding any provisions of this chapter, in the event of a surplus the campaign treasurer of a candidate committee or of a political committee, other than a political committee formed for ongoing political activities or an exploratory committee, shall distribute or expend such surplus not later than ... March thirty-first following an election or referendum held in November...

11. General Statutes § 9-608 (e) (1) (A) provides that the Citizens' Election Fund is the sole acceptable repository for the surplus of any committee receiving a CEP grant and provides, in relevant part:

Such committees may distribute their surplus to a party committee, or a political committee organized for ongoing political activities, return such surplus to all contributors to the committee on a prorated basis of contribution, distribute all or any part of such surplus to the Citizens' Election Fund established in section 9-701 or distribute such surplus to any charitable organization which is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, provided (i) no candidate committee may distribute such surplus to a committee which has been established to finance future political campaigns of the candidate, (ii) *a candidate committee which received moneys from the Citizens' Election Fund shall distribute such surplus to such fund*, and (iii) a candidate committee for a nonparticipating candidate, as described in subsection (b) of section 9-703, may only distribute any such surplus to the Citizens' Election Fund or to a charitable organization. [Emphasis added.]

12. General Statutes § 9-608 (e) (3) sets forth a contingent timeline for requiring a report on the distribution of such funds and provides, in relevant part:

Not later than seven days after such distribution ... the campaign treasurer shall file a supplemental statement, sworn under penalty of false statement, with the proper authority, identifying all further contributions received since the previous statement and explaining how any surplus has been distributed or expended in accordance with this section. No surplus may be distributed or expended until after the election, primary or referendum. [Emphasis Added.]

13. General Statute § 9-602 (c) itemizes the methods for a treasurer to be relieved of their obligations and liabilities under that office and provides that:

An individual who is designated as campaign treasurer of a committee shall be responsible for all duties required of him under this chapter until the committee is terminated. The campaign treasurer shall be relieved of such duties upon his permanent incapacity, resignation or replacement, provided a statement to that effect is filed with the proper authority, as provided in section 9-603....

14. General Statutes § 9-608 (a) (1) sets forth the schedule and manner for candidate committee and most other committee filings and provides, in relevant part:

Each treasurer of a 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...

15. General Statutes § 9-706 (e) provides that, “The State Elections Enforcement Commission shall adopt regulations, in accordance with the provisions of chapter 54, on permissible expenditures under subsection (g) of section 9-607 for qualified candidate committees receiving grants...” Adopted pursuant to the above cited statute, section 9-706-2 (b) of the Regulations of Connecticut State Agencies provides, in relevant part:

In addition to the requirements set out in Section 9-706-1 of the Regulations of Connecticut State Agencies, participating candidates and the treasurers of

such participating candidates shall comply with the following Citizens' Election Program requirements. Participating candidates and the treasurers of such participating candidates shall not spend funds in the participating candidate's depository account for the following: (3) Payments to the participating candidate or the participating candidate's family members, including: ... child ... or the spouse, civil union partner, or child of any such individuals related to the participating candidate ... (13) Expenditures incurred but not paid for which payment of any portion of the outstanding liability is made contingent on the participating candidate committee's receipt of a grant from the Citizens' Election Fund....

16. A failure to repay surplus to the CEF in a timely manner is larceny pursuant to General Statutes § 53a-119 and a felony. Such statute provides, in relevant part:

A person commits larceny when, with intent to deprive another of property or to appropriate the same to himself or a third person, he wrongfully takes, obtains or withholds such property from an owner. Larceny includes, but is not limited to:

...

(18) Failure to repay surplus Citizens' Election Fund grant funds. A person is guilty of failure to repay surplus Citizens' Election Fund grant funds when such person fails to return to the Citizens' Election Fund any surplus funds from a grant made pursuant to sections 9-700 to 9-716, inclusive, not later than ninety days after the primary or election for which the grant is made....

17. As described in further detail above, the Respondent admits to a violation of General Statutes § 9-608 (e) (1), two counts of violations of General Statutes § 9-607 (g) pursuant to § 9-706-2 (b) of the Regulations of Connecticut State Agencies, and a violation of General Statutes § 9-608 (a) (1) (A).
18. The Respondent admits that, as the treasurer of a committee with a surplus, he was required to continue filing on the regular quarterly schedule prescribed by General Statutes § 9-608 (a) (1) (A) until his resignation or replacement in the manner prescribed by General Statutes § 9-602 (c).
19. Pursuant to General Statutes § 9-7b (a) (2) (D), the available penalty for most of the violations at issue is "two thousand dollars per offense or twice the amount of any improper payment or contribution, whichever is greater." The above penalty provision is in addition

to, and not in lieu of, Commission's ability to order the return of any improper payment under General Statutes § 9-7b (3) (a) (e.g., an improper payment of \$5,000.00 may result in both an order to return the \$5,000.00 as well as a penalty of \$10,000.00).

20. Because the Respondent filed the Committee's filing due on April 10, 2013 prior to the expiration of the warning period prescribed by General Statutes § 9-623 (b) (2), unlike all other violations under review in the instant matter, the Commission is limited to imposing a \$100.00 late filing fee for the late filing due on April 10, 2013 and as required by General Statutes § 9-623 (b) (1). The reporting period required by such filing was ultimately covered in the treasurer's report on the distribution of surplus and termination statement.
21. 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.
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 into after a full hearing and shall become final when adopted by the Commission.
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 to contest the validity of the Order entered into pursuant to this Agreement.
24. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent concerning this matter.

25. 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 Parties in any subsequent hearing, if one becomes necessary.

ORDER

It is hereby ordered that the Respondent pay as a civil penalty the total amount of \$6,500.00, based upon the breakdown for the multiple counts listed below.

The Respondent's late return of surplus from a CEP grant, a violation of § 9-608 (e) (1) - a payment of \$1,000.00.

The Respondent impermissibly paying himself out of CEP grant funds because of his status as the Candidate's son-in-law, a violation of General Statutes § 9-607 (g) pursuant to § 9-706-2 (b) of the Regulations of Connecticut State Agencies - a total of \$3,900.00 this count, which represents a payment of \$2,600.00 for the return of the improper payment, plus \$1,300.00 a settlement payment.

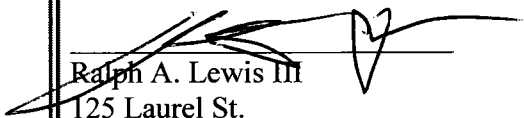
The Respondent impermissibly contracting with himself in a contingency fee contract with payment upon receipt of a public grant, violation of General Statutes § 9-607 (g) pursuant to § 9-706-2 (b) of the Regulations of Connecticut State Agencies - a payment of \$1,500.00. The return of the associated payment is already a subcomponent of the settlement for the above count. This penalty figure is in addition to such recoupment.

The Respondent's outstanding late filing fee of \$100.00 for the filing due on April 10, 2013, violation of § 9-608 (a) (1) (A) and required under General Statutes § 9-623 (b) (1).

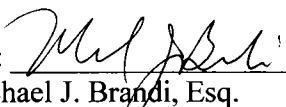
The Respondent is further ordered henceforth to strictly comply with the requirements of Chapters 155 and 157 of the General Statutes.

The Respondent:

For the State of Connecticut:



Ralph A. Lewis III
125 Laurel St.
Stratford, CT 06615

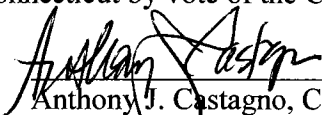
BY: 

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

Dated: 6/9/14

Dated: 6/9/14

Adopted this 18th day of June 2014 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission