

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Sheri Lepper, West Haven

File No. 2014-157

**AGREEMENT CONTAINING A CONSENT ORDER**

The parties, Nicholas Pascale (the "Respondent") and the undersigned authorized representative of the State Elections Enforcement Commission (the "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:

**PARTIES**

1. For the period of June 15, 2012 through July 8, 2014, inclusive, the Respondent was the Treasurer of the West Haven Democratic Town Committee (the "WHDTC")
2. For the period July 9, 2014, through the date of this agreement, the Complainant, Sheri Lepper was the treasurer of the WHDTC

**COUNT I**

**ALLEGATION**

3. The Complainant alleges that the Respondent, when he was the treasurer of the WHDTC, reimbursed committee workers in the 2013 calendar year, without proper documentation, in violation of General Statutes § 9-607 (f).

**LAW**

4. General Statutes § 9-607 (f) requires that:

The treasurer shall preserve all internal records of transactions required to be entered in reports filed pursuant to section 9-608 for four years from the date of the report in which the transactions were entered. Internal records required to be maintained in order for any permissible expenditure to be paid from committee funds include, but are not limited to, contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or other lawful purpose of the expenditure. If a committee incurs expenses by credit card, the treasurer shall preserve all credit card statements and receipts for four years from the date of the report in which the transaction was required to be entered. If any checks are issued pursuant to subsection (e) of this

section, the treasurer who issues them shall preserve all cancelled checks and bank statements for four years from the date on which they are issued. If debit card payments are made pursuant to subsection (e) of this section, the treasurer who makes said payments shall preserve all debit card slips and bank statements for four years from the date on which the payments are made. In the case of a candidate committee, the treasurer or the candidate, if the candidate so requests, shall preserve all internal records, cancelled checks, debit cards slips and bank statements for four years from the date of the last report required to be filed under subsection (a) of section 9-608.

#### FACTUAL BACKGROUND

5. This matter was brought to the Commission's attention by way of a complaint by the current treasurer of the WHDTC. The treasurer alleged that the Respondent, the prior treasurer of the WHDTC, failed to obtain proper documentation to support reimbursements paid to committee workers.
6. The Respondent was the treasurer of the WHDTC from June 15, 2012 through July 9, 2014. On July 9, 2014, the Complainant became the treasurer of the WHDTC.
7. The investigation into this matter revealed two committee workers, Thomas McCarthy and Tara Pickard, had received \$3,000 and \$2,000 in reimbursements during the 2013 calendar year, respectively. In response to an inquiry by Commission staff, the Respondent provided documentation, in the form of receipts, supporting the reimbursements to those two individuals. Specifically, the receipts showed that, in July and August of 2012, Mr. McCarthy had made expenditures on behalf of the committee in the amount of \$3,101.10 for which he sought reimbursement, and Ms. Pickard made expenditures of \$2,474.24 for which she sought reimbursement. The bank records of the WHDTC reveal that those reimbursements were made between April and October of 2013.

#### DISCUSSION

8. As the Respondent did collect and maintain documentation supporting the reimbursements in question, this allegation should be dismissed.

#### COUNT II

##### ALLEGATION

9. The Complainant alleges that the Respondent, when he was the treasurer of the WHDTC, failed to properly report the reimbursement of committee workers in the WHDTC's financial disclosure statements, in violation of General Statutes § 9-608.

LAW

10. General Statutes § 9-608 requires that treasurers file periodic financial disclosure statements concerning their committees. General Statutes § 9-608 (c) (1) further provides that:

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; (B) an itemized accounting of each expenditure, if any, including the full name and complete address of each payee, including secondary payees whenever the primary or principal payee is known to include charges which the primary payee has already paid or will pay directly to another person, vendor or entity, the amount and the purpose of the expenditure, the candidate supported or opposed by the expenditure, whether the expenditure is made independently of the candidate supported or is an in-kind contribution to the candidate, and a statement of the balance on hand or deficit, as the case may be; (C) 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; (D) the name and address of any person who is the guarantor of a loan to, or the cosigner of a note with, the candidate on whose behalf the committee was formed, or the treasurer in the case of a party committee or a political committee or who has advanced a security deposit to a telephone company, as defined in section 16-1, for telecommunications service for a committee; (E) for each business entity or person purchasing advertising space in a program for a fund-raising affair or on signs at a fund-raising affair, the name and address of the business entity or the name and address of the person, and the amount and aggregate amounts of such purchases; (F) for each individual who contributes in excess of one hundred dollars but not more than one thousand dollars, in the aggregate, to the extent known, the principal occupation of such individual and the name of the individual's employer, if any; (G) for each individual who contributes in excess of one thousand dollars in the aggregate, the principal occupation of such individual and the name of the individual's employer, if any; (H) for each itemized contribution made by a lobbyist, the spouse of a lobbyist or any dependent child of a lobbyist who resides in the lobbyist's household, a statement to that effect; and (I) for each individual who contributes in excess of four hundred dollars in the aggregate to or for the benefit of any candidate's campaign for nomination at a primary or election to the office of chief executive officer or a slate or town committee financing the nomination or election or a candidate for chief executive officer of a town, city or borough, a statement indicating whether the individual or a business with which he is associated has a contract with said municipality that is valued at more than five thousand dollars. Each treasurer shall include in such statement (i) an itemized accounting of the receipts and expenditures relative to any testimonial affair held under the provisions of section 9-609 or any other fund-raising affair, which is referred to in subsection (b) of section 9-601a, and (ii) the date, location and a description of the affair, except that a treasurer shall not be required to include the name of any individual who has purchased items at

a fund-raising affair or food at a town fair, county fair or similar mass gathering, if the cumulative value of items purchased by such individual does not exceed one hundred dollars, or the name of any individual who has donated food or beverages for a meeting. A treasurer shall not be required to report or retain any receipts or expenditures related to any de minimis donations described in subdivision (17) of subsection (b) of section 9-601a.

#### FACTUAL BACKGROUND

11. The investigation into this allegation revealed that two committee workers, Thomas McCarthy and Tara Pickard, had received \$3,000 and \$2,000 in reimbursements between April and October of 2013, respectively. Those reimbursements were for documented expenditures of \$3,101.10 by Mr. McCarthy and \$2,474.24 by Ms. Pickard, made in July and August of 2012.
12. The financial disclosure statements for the period between July of 2012 and October of 2013 do not reflect any incurred but not yet paid expenditures associated with the these two committee workers.
13. Moreover, when the reimbursements to Mr. McCarthy and Ms. Pickard were reported, they failed to identify the secondary payees (the entities that Mr. McCarthy and Ms. Pickard had paid for goods and services on behalf of the committee).
14. Finally, the reimbursements to Mr. McCarthy and Ms. Pickard were less than the total amount expended by those individuals, but there was never any accounting for this discrepancy in the reporting.

#### DISCUSSION

##### Liability

15. The treasurer of a committee is required to accurately report all contributions to and expenditures by the committee. General Statutes § 9-608. See also, *In the Matter of a Complaint by Charles J. Coviello, Bridgeport*, File No. 2014-073, *In the Matter of a Complaint by Anthony Santino*, File No. 2013-042, *Complaints of Tom Kelly, Bridgeport*, 2011-090 & 097. Such requirements include the requirement to accurately report expenses incurred but not yet paid, and secondary payees. *Id.*
16. In this case, two committee workers incurred numerous expenses on behalf of the WHDTC in July and August of 2012. However, nothing reflecting those transactions were reported in the WHDTC's financial disclosure statements until well into 2013, and that was simply a reimbursement.

17. Moreover, even when those reimbursements were reported, the secondary payees were still not reported.
18. Finally, when the reimbursements were made, the balance that was still outstanding and never paid back should have been reported as a contribution by the committee workers to the committee. It was not.
19. Accordingly, the Respondent violated General Statutes § 9-608 in failing to report expenditures incurred but not yet paid and secondary payees.

#### Penalty

20. The Commission considers failing to accurately report contributions and expenditures to a committee to be a serious matter. *Complaint of Peter Steele, New Britain*, File No. 2013-142; *In the Matter of a Complaint by Charles J. Coviello, Bridgeport*, File No. 2014-073, *In the Matter of a Complaint by Anthony Santino*, File No. 2013-042, *Complaints of Tom Kelly, Bridgeport*, 2011-090 & 097.
21. The Respondent stated that the failure to report was because he did not understand the campaign finance laws, not because he wished to conceal any activity. The investigation revealed no evidence contrary to this assertion.
22. Accordingly, the Commission finds a civil penalty in the amount of \$200 appropriate for the violations detailed in Count II.

### COUNT III

#### ALLEGATION

23. In the course of the investigation, facts were discovered that suggested that, in failing to reimburse committee workers for nearly a year, the committee accepted an impermissible, in kind contribution from said committee workers.<sup>1</sup>

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<sup>1</sup> As the expenditures by the committee workers appear to have been approved by the treasurer and said committee workers timely requested reimbursement and provided the required documentation, the evidence would not support an allegation that the committee workers made an impermissible contribution. Accordingly, they have not been named as respondents.

LAW

24. General Statutes § 9-607 (g) (2) (O) allows treasurers to pay the expense of “reimbursements to candidates and campaign or committee workers made in accordance with the provisions of this section for campaign-related expenses for which a receipt is received by the treasurer[.]”
25. General Statutes § 9-612 further provides, in pertinent part, that “[n]o individual shall make a contribution or contributions in any one calendar year in excess of . . . ; two thousand dollars to a town committee of any political party, or for the benefit of such committee pursuant to its authorization or request[.]” Accepting such a contribution is considered an “illegal practice” pursuant to General Statutes § 9-623.
26. In reconciling these provisions, the Commission held, in 2006, that:

Where a committee worker uses personal funds to make authorized expenditures on behalf of the committee for which reimbursement is sought, such payments are deemed to be contributions to the committee to the extent that they are not reimbursed by the committee to the worker within 45 days from the date that such expenditure was made. This rule is necessary in order to avoid the unintended consequence of making an excessive contribution.

*In the Matter of a Complaint by Paul M. Carver, New Britain, File No. 2006-137.*

27. While there is no record of the Commission addressing a similar issue in an enforcement matter since 2006, the Commission has addressed the failure to timely reimburse committee workers in the audit process. When a committee worker is not reimbursed within 45 days from the date an expenditure is made, the Commission will include the following statement within the audit summary.

Candidate committees are permitted to make expenditures which are for “campaign related expenditures made to directly further the participating candidate’s nomination or election to the office specified in the participating candidate’s affidavit certifying the candidate’s intent to abide by Citizens’ Election Program Requirements” as is prescribed by Regs., Conn. State Agencies § 9-706-1. Committee workers are permitted to make campaign related expenditures and later seek reimbursement from the committee as provided by General Statutes § 9-607 (j). In order for the individual to be reimbursed with committee funds, the individual must “provide the campaign treasurer with a written receipt or other documentary evidence from the vendor proving his payment of the expenditure” and the campaign treasurer must have “authorized the expenditure” from personal funds. If reimbursement is not sought and received within a reasonable time after the expenditure is made or incurred

(typically 45 days), then a contribution to the committee will be deemed to have been made.

Transactions entered in Section N (Expenses Paid by Committee) as well as those entered in Section R (Itemization for Reimbursements to Committee Workers and Consultants) and Section O (Campaign Expenses Paid by Candidate) on the committee's SEEC Form 30 (Itemized Campaign Finance Statement) were verified against the backup documentation and bank statements currently on file. These reimbursements were reviewed to determine if funds were repaid timely.

*Commission Recommendation:* The Commission advises the Committee to timely reimburse the candidate or committee workers. In the future, please reimburse any individual or, for a coordinated expenditure, committee within a reasonable time period, deemed to be within 45 days.

#### FACTUAL BACKGROUND

28. The investigation into this allegation revealed that two committee workers, Thomas McCarthy and Tara Pickard, had received \$3,000 and \$2,000 in reimbursements between April and October of 2013, respectively. Those reimbursements were for documented expenditures of \$3,101.10 by Mr. McCarthy and \$2,474.24 by Ms. Pickard, made in July and August of 2012.
29. The financial disclosure statements for the WHDTC reveal that Mr. McCarthy also made \$105 in contributions to the WHDTC in 2012. Those same reports show that Tara Pickard made no reported contributions to the WHDTC.

#### DISCUSSION

##### Liability

30. In this case, regardless the standard for reimbursement of a committee worker that is applied – 45 days or “a reasonable period of time” – the outcome will be unchanged.<sup>2</sup> The Contribution limits for individuals to a town party committee is \$2,000 within a calendar year. General Statutes § 9-612. The committee workers in this matter made expenditures on behalf of the WHDTC exceeding their contribution limits, and were not reimbursed within

<sup>2</sup> To clarify the Commission's position concerning timely reimbursement of committee workers: All reimbursements of committee workers must be reimbursed within a reasonable period of time. Any reimbursement of a committee worker within 45 days after an expenditure for which the worker seeks reimbursement, shall be deemed to be a reimbursement within a reasonable period of time. Any reimbursement that is made more than 45 days after the committee worker makes an expenditure for which he seeks reimbursement may be considered reasonable or not based upon the Commission's specific assessment of the facts of that case. The Commission further notes that the more time that passes beyond the 45th day after an expenditure is made, the less likely it is that the Commission will find that the reimbursement was made in a reasonable period of time.

that calendar year, nor were the reimbursed within 45 days or even a reasonable period of time. While the committee workers requested reimbursement, they were not reimbursed for at least nine months, and some of the reimbursements took over a year. Accordingly, the Commission finds that, in failing to reimburse the Respondent in a reasonable period of time, the WHDTC accepted impermissible contributions from Thomas McCarthy and Tara Pickard in violation of General Statutes § 9-612.

#### Penalty

31. While the Commission considers contribution limit violations to be serious matters, when such violations are unintentional, the Commission has considered that to be relevant in assessing a civil penalty. *In the Matter of a Complaint by Paul M. Carver, New Britain*, File No. 2006-137; *In the Matter of a Complaint by Lesa C. Peters, Woodbury*, 2012-003; *Complaint of Monika Thiel, New Fairfield*, File No. 2011-006; *In the Matter of a Complaint by Larry McCloskey, Stafford*, File No. 2009-109.
32. Moreover, when, upon discovery of a contribution in excess of the contribution limit, the treasurer of a committee disgorges such contribution, it is considered to be a mitigating factor by the Commission. *Complaint of Monika Thiel, New Fairfield*, File No. 2011-006. In the instant matter, by reimbursing the committee workers, the respondent effectively disgorged the excess contribution.
33. The Respondent has cooperated with the investigation into this matter and, in reimbursing the committee workers, though late, has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
34. Accordingly, the Commission finds a civil penalty in the amount of \$200 appropriate for the violations detailed in Count III.

#### TERMS OF GENERAL APPLICATION

35. The Respondent admits to 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.
36. 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.

37. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondents regarding this matter.

38. 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, proceeding or forum.

**ORDER**

It is hereby ordered that the Respondent shall henceforth strictly adhere to the requirements of General Statutes §§ 9-608 and 9-612.

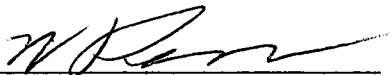
It is further ordered that the allegations detailed in Count I are dismissed.


It is further ordered that the Respondent shall pay a civil penalty of \$200 for the violations detailed in Count II.

It is further ordered that the Respondent shall pay a civil penalty of \$200 for the violations detailed in Count III.

**The Respondent:**

**For the State of Connecticut:**

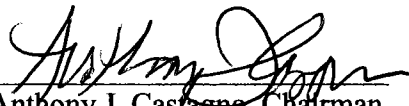
By:   
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By:   
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Executive Director and General Counsel and  
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State Elections Enforcement Commission  
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Dated: 6-13-17

Dated: 6/19/17

Adopted this 21 day of June, 2017 at Hartford, Connecticut by vote of the Commission.

  
Anthony J. Caslagno, Chairman  
By Order of the Commission

RECEIVED  
STATE ELECTIONS

JUN 19 2017

ENFORCEMENT COMMISSION