

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Curtis Dowling, Andover

File No. 2015-028B

AGREEMENT CONTAINING A CONSENT ORDER

The Agreement, by and between Robert Burbank, of the Town of Andover, State of Connecticut and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177 (c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. The Complaint in this matter was filed by Curtis Dowling of the Town of Andover (hereinafter the "Complainant"). The Complaint alleges two violations of Connecticut's election laws by Respondent Burbank.¹ First, the Complainant alleges that Respondent Burbank failed to include the required attribution statement on his campaign website. Second, the Complainant alleges that Respondent Burbank utilized public resources in furtherance of his campaign for first selectman.
2. With regard to the allegation concerning use of public resources, Complainant alleges that Respondent Burbank used his Town Hall office and Town Hall phone for campaign purposes, and also notes that the Town Hall office address and phone number are the only contacts listed on Mr. Burbank's campaign website.

COUNT I: FAILURE TO INCLUDE PROPER ATTRIBUTION ON CAMPAIGN COMMUNICATIONS

3. The Complainant alleges that Respondent Burbank failed to include the required attribution statement on his campaign website.
4. General Statutes § 9-621 (a) details the attribution requirements for electioneering communications. Specifically, the statute provides that "any written, typed or other printed communication, or any web-based, written communication, which promotes the success or defeat of any candidate's campaign" must include:

- (1) the words "paid for by" and the following: . . . in the case of a committee other than a party committee, the name of the committee and its treasurer; . . . , and (2) the words "approved by" and the following: . . . in the case of a candidate committee, the name of the candidate

¹ Allegations in the Complaint concerning Respondent Jay Linddy shall be addressed in a separate document.

5. Respondent Burbank admits that the website www.bobburbank.com was his campaign website for the 2015 municipal election.
6. Respondent Burbank admits that the website www.bobburbank.com did not contain the attributions required by General Statutes § 9-621 (a).
7. Respondent Burbank has no history of violations with the Commission.
8. The evidence, however, does show that the owner and purpose of the website was obvious on the face of it, including large font titles stating “Bob Burbank/First Selectman” and “Re-elect Bob Burbank First Selectman on May 4.”
9. The Commission has a history of exercising its discretion not to pursue civil penalties in similar situations. *See Compliant by Michael Gongler and Victor L. Harpley, Cromwell, File No. 2009-126; Complaint of John D. Norris, Southbury, File No. 2011-108; Complaint of Arthur Scialabba, Norwalk, File 2011-125; Complaint of Robert W Prentice, Wallingford, File No 2011 -134; Complaint of Arthur Scialabba, Norwalk, File 2012-011; Complaints of Pete Bass, New Milford, File 2012-158 & 162; Complaint of Michael J. Flint, Lakeville, File No. 2013-135.*
10. While the Commission finds that the facts in this case do support a finding of a violation of General Statutes § 9-621, given Respondent Burbank’s lack of history with the Commission, forthrightness with the investigation, and that the owner of the website at issue was obvious on its face, the Commission elects not to pursue a civil penalty.

COUNT II: USE OF PUBLIC RESOURCES FOR CAMPAIGN/FAILURE TO AMEND CANDIDATE REGISTRATION STATEMENT

11. The Complainant alleges that Respondent Burbank utilized public resources in furtherance of his campaign for first selectman.
12. Specifically, the Complainant alleges that Respondent Burbank used his Town Hall office and Town Hall phone for campaign purposes, and also notes that the Town Hall office address and phone number are the only contacts listed on Mr. Burbank’s campaign website.
13. Connecticut’s campaign finance statutes lack specific tools to address use of public resources to support a political campaign other than in certain narrowly defined settings, primarily related to the distribution of publicly-funded materials that feature an incumbent. General Statutes § 9-610 (d).

14. In certain scenarios, the Commission has also relied on General Statutes § 9-622 (5), which defines an “illegal practice” as “defraying costs” from a candidate’s candidate committee to another entity without notifying the candidate committee’s treasurer of the defrayal.
15. In this instance, the investigation revealed no evidence that Respondent Burbank actually utilized public resources by making phone calls on public phones or used Town Hall space for meetings of his campaign. However, Respondent Burbank admits that his campaign website listed only the Town Hall address and his Town Hall phone number as the contact information for his campaign.
16. Whether or not a public space or phone is actually used, having an address and a phone line to list as a point of contact are things of value to a campaign. If Respondent Burbank were not a public official, his campaign would have needed to purchase such items, even if they were not actually utilized.
17. Candidates are also required to form a candidate committee to fund their campaign unless they fall within one of the specific exemptions contained within General Statutes § 9-604 (b).
18. General Statutes § 9-604 (b) further provides:

If the candidate no longer qualifies for the exemption due to the condition stated in the candidate's certification but so qualifies due to a different condition specified in this subsection, the candidate shall file an amended certification with the proper authority and provide the new condition for the candidate's qualification not later than three business days following the change in circumstances of the financing of the candidate's campaign.
19. In his candidate registration form, filed with the Town Clerk, Respondent Burbank indicated that he was funding his campaign exclusively with his own personal funds.
20. By using his official Town Hall address and phone number as the exclusive point of contact for his campaign, Respondent Burbank received something of value.
21. Whether or not it was a public resource, by accepting a contribution from a source other than his own personal funds, he no longer qualified for his claimed exemption from forming a candidate committee.
22. Upon receipt of that valuable item, Respondent Burbank was required, at a minimum, to amend his registration statement to indicate that he was either going to form a candidate

committee or indicate for which other exemption to the requirement to form a candidate committee he then qualified.

23. Respondent Burbank did not so amend his registration statement.
24. Accordingly, Respondent Burbank was in violation of General Statutes § 9-604 (b).
25. However, because Respondent Burbank appeared to be operating in good faith, has no history of violations with the Commission, and has been forthright with the Commission, the Commission is exercising its discretion not to impose a civil penalty.
26. 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.
27. 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.
28. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her concerning this matter.
29. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if the same becomes necessary.

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-604.

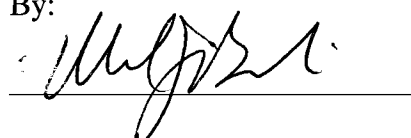
The Respondent

For the State of Connecticut

By:



By:




Robert Burbank
208 Gilead Road
Andover, CT 06232

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: 3-24-16

Dated: 3/28/16

Adopted this 13 day of April, 2016 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission

RECEIVED
STATE ELECTIONS

MAR 28 2016

ENFORCEMENT COMMISSION