

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Aaron Charney,
West Haven

File No. 2015-103 O

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between Elizabeth H. Davis (hereinafter "Respondent"), of the City of West Haven, County of New Haven, State of Connecticut and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with General Statutes § 4-177(c) and section 9-7b-54 of the Regulations of Connecticut State Agencies.

In accordance herewith, the parties agree that:

1. The Complainant filed this complaint alleging that on August 1, 2015 that "an invitation for a West Haven's Future Now (WHFN) was posted on Facebook to a fundraiser" for candidates at the September 16, 2015 Democratic primary in the City of West Haven.
2. Complainant alleged that this invitation triggered the 10 day requirement for designating WHFN as their campaign funding vehicle, pursuant to General Statutes § 9-602 and § 9-604, and that all but one WHFN candidate failed to timely register in violation of those sections.
3. Further, Complainant alleged that the WHFN failed to register as a political slate committee within 10 days of its August 1, 2015 fundraising invitation pursuant to § 9-603 and § 9-605 in violation of those sections.
4. Complainant based his allegations upon a solicitation to an August 6, 2015 WHFN fundraiser that was first publicized on Facebook on August 1, 2015. It read in part:
Please Join Us – [Candidates/Respondents Names]—FOR A PIZZA FUNDRAISER/PARTY – \$20 – Date: THURSDAY August 6th – Time: 5:30-8:30 – Address: 867 Jones Hill Road, West Haven – Please come out and support us as we get ready for the Wednesday, September 16th Democratic Primary
The Commission notes that the solicitation had an attribution as required by General Statutes § 9-621 and named each of the Respondents who were supported by WHFN; including Respondent who was a candidate for Board of Education at the September 16, 2015 Democratic primary.
5. The Commission details and addresses allegations in this complaint pertaining to additional Respondents under separate respective dispositions. Further, the Commission details the allegation pertaining to the registration of the WHFN under a separate disposition.

6. Finally, the Commission notes that Ms. Nancy Rossi and Mr. Joey S. Pascale, while members of the WHFN political slate committee were not Respondents in this matter because they either filed their forms in a timely manner or were not named on the social media solicitation that formed the basis of Complainant's allegations.

7. General Statutes § 9-601, provides in pertinent part:

...

(11) "Candidate" means an individual who seeks nomination for election or election to public office whether or not such individual is elected, and for the purposes of this chapter and chapter 157, an individual shall be deemed to seek nomination for election or election if such individual has (A) been endorsed by a party or become eligible for a position on the ballot at an election or primary, **or (B) solicited or received contributions, other than for a party committee, made expenditures or given such individual's consent to any other person, other than a party committee, to solicit or receive contributions or make expenditures with the intent to bring about such individual's nomination for election or election to any such office.** "Candidate" also means a slate of candidates which is to appear on the ballot in a primary for the office of justice of the peace. For the purposes of sections 9-600 to 9-610, inclusive, and section 9-621, "candidate" also means an individual who is a candidate in a primary for town committee members.

[Emphasis added.]

8. General Statutes § 9-602, provides in pertinent part:

(a) Except with respect to an individual acting alone, ... no contributions may be made, solicited or received and no expenditures, other than independent expenditures, may be made, directly or indirectly, in aid of or in opposition to the candidacy for nomination or election of any individual or any party or referendum question, unless (1) the candidate or chairman of the committee has filed a designation of a treasurer and a depository institution situated in this state as the depository for the committee's funds, or (2) the candidate has filed a certification in accordance with the provisions of section 9-604. In the case of a political committee, the filing of the statement of organization by the chairman of such committee, in accordance with the provisions of section 9-605, shall constitute compliance with the provisions of this subsection.

(b) No contribution in aid of or in opposition to the candidacy of any person or to any party or referendum question shall be made at any time, except to the committee's treasurer whose designation is on file with the proper authority, a solicitor or a candidate who is exempt from the requirement to form a candidate committee and has filed a certification.

9. General Statutes § 9-603, provides in pertinent part:

(b) Statements filed by political committees formed solely to aid or promote the success or defeat of a referendum question to be voted upon by the electors of a single municipality and those political committees or candidate committees formed to aid or promote the success or defeat of any candidate for public office, other than those enumerated in subsection (a) of this section, or the position of town committee member shall be filed only with the town clerk of the municipality in which the election or referendum is to be held. Each unsalaried town clerk shall be entitled to receive ten cents from the town for the filing of each such statement.

(c) A certification of a candidate who is exempt from the requirement of subsection (a) of section 9-604 to form a candidate committee shall be filed with the State Elections Enforcement Commission if the candidate seeks an office enumerated in subsection (a) of this section, or with the town clerk of the municipality in which the election is to be held if the candidate seeks an office other than those enumerated. A certification of a group of individuals who have joined solely to aid or promote a referendum question and who are exempt from the requirement to form a political committee under section 9-605 shall be filed with the town clerk of each municipality in which the referendum is to be held
[Emphasis added.]

10. General Statutes § 9-604, provides in pertinent part:

(a) Each candidate for a particular public office or the position of town committee member shall form a single candidate committee for which he shall designate a treasurer and a depository institution situated in this state as the depository for the committee's funds and shall file a committee statement containing such designations, not later than ten days after becoming a candidate, with the proper authority as required by section 9-603. The candidate may also designate a deputy treasurer on such committee statement. The

treasurer and any deputy treasurer so designated shall sign a statement accepting such designation which the candidate shall include as part of, or file with, the committee statement.

(b) The formation of a candidate committee by a candidate and the filing of statements pursuant to section 9-608 shall not be required if the candidate files a certification with the proper authority required by section 9-603, not later than ten days after becoming a candidate, and any of the following conditions exist for the campaign: (1) The candidate is one of a slate of candidates whose campaigns are funded solely by a party committee or a political committee formed for a single election or primary ...

[Emphasis added.]

11. Upon investigation, it was determined that Mr. Christopher Suggs registered the WHFN by filing a *Political Committee (PAC) Registration* (SEEC Form 3) with the West Haven City Clerk's office on August 12, 2015. Further, Mr. Suggs identified Mr. Gerald Calabritto as Treasurer of WHFN when he filed with that office on August 12, 2015.
12. The WHFN registration indicated that the political slate committee was formed for the September 16, 2015 Democratic primary in West Haven and the *Registration by Candidate* (SEEC Form 1) and *Certification of Exemption from Forming a Candidate Committee* (SEEC Form 1B) exemptions for the individuals appearing on that slate of candidates were filed simultaneously with the WHFN registration.
13. The Commission finds that on August 2, 2015 Respondent signed her SEEC Form 1 and SEEC Form 1B for the office of Board of Education. Respondent signed those forms for the purpose of designating WHFN as her sole funding vehicle for the September 16, 2015 Democratic primary in West Haven.
14. The Commission finds that the August 1, 2015 WHFN social media solicitation on Facebook for the August 6, 2015 fundraiser triggered the requirement, pursuant to General Statutes § 9-602, that each candidate named must either form a candidate committee or designate and file an exemption pursuant to § 9-604 pertaining to their candidacies for the September 16, 2016 West Haven Democratic primary.
15. After investigation, the Commission further finds Respondent gave her SEEC Form 1 and Form 1B candidate exemptions to Mr. Suggs on or about August 2, 2015. Mr. Suggs included Respondent's forms when he registered the WHFN as a political slate committee on August 12, 2017 as detailed herein.

16. The Commission finds that pursuant to General Statutes § 9-604, Respondent's SEEC Form 1 and SEEC Form 1B was due 10 days after the August 1, 2015 WHFN solicitation, *which was August 11, 2015.*
17. The Commission finds therefore that Respondent's exemption from forming a candidate committee for the September 16, 2016 West Haven Democratic primary was filed one day *after* the August 11, 2015 due date triggered pursuant to General Statutes § 9-604 and the August 1, 2015 WHFN solicitation .
18. The Commission concludes that Respondent violated General Statutes § 9-602 by failing to timely register a candidate committee for the West Haven Democratic Committee September 15, 2015 primary pertaining to candidacy for Board of Education.
19. The Commission further concludes that Respondent violated General Statutes § 9-604 by failing to timely file the SEEC Form 1 and SEEC Form 1B designating the WHFN as her sole funding vehicle for her campaign for Board of Education at the September 15, 2015 West Haven Democratic primary.
20. Respondent believes that her submission to the WHFN chair of her candidate exemption was made in good faith and satisfied the requirements for her appearing on the slate of candidates at the September 16, 2015 Democratic primary in West Haven. Further, Respondent stresses the fact and finding that her candidate exemption was a single day late according to the Commission. Nevertheless, Respondent accepts the authority of the Commission to adopt the administrative order and agrees to the same to avoid any further costs pertaining to this matter or any future costs of litigation.
21. 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 after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Regulations of Connecticut State Agencies § 9-7b-56.
22. It is understood that this Agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
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 challenge or contest the validity of this Agreement or Order hereinafter stated.

24. Upon the Respondent's agreement with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her pertaining to this matter.

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-602 and § 9-604.

The Respondent:

For the State Elections Enforcement Commission:

By: 

Elizabeth H. Davis
79 Oxbow Lane
West Haven, Connecticut

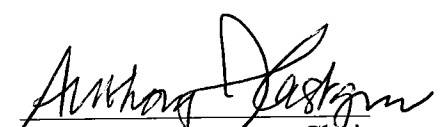
By: 

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

Dated: 

Dated: 10/24/17

Adopted this 15th day of November, 2017 at Hartford, Connecticut


Anthony J. Castagno, Chair
By Order of the Commission