

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Joseph Walkovich, Danbury

File No. 2016-002B

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Barry Connell, of the City of Bethel, State of Connecticut (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-54.¹ In accordance with those provisions, the parties agree that:

BACKGROUND AND PARTIES

1. At all times relevant hereto, the Hat PAC (hereinafter the “Hat PAC” or the “Committee”) was an ongoing political committee formed pursuant to the laws of the State of Connecticut for the purpose of making expenditures in both state and municipal elections in the State of Connecticut.
2. On November 30, 2015, Helena Abrantes² resigned as treasurer of the Hat PAC.
3. At the time of Helena Abrantes’s resignation as treasurer of the Hat PAC, Respondent Connell was the registered Deputy Treasurer of the Hat PAC.
4. General Statutes § 9-602 (c) provides, in relevant part:

The 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. In the event of the death of the treasurer or after a statement has been filed concerning the treasurer’s incapacity, resignation or replacement, if a deputy treasurer has been designated, the deputy treasurer shall be

¹ Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission’s jurisdiction or relate exclusively to another Respondent. Accordingly, any Count relating to Respondent Connell not specifically addressed herein is dismissed.

² Helena Abrantes was also named as a respondent in the instant action. Allegations concerning Respondent Abrantes are addressed in a separate document.

responsible for all duties required of the treasurer under this chapter until the candidate or chairman of the committee files with the proper authority a designation of a successor treasurer.

5. As of July 25, 2016, the Hat PAC has not amended its registration.
6. Accordingly, from November 30, 2015 until at least July 25, 2015, Respondent Connell was responsible for all of the duties required of the treasurer of the Hat PAC.

COUNT I

7. Complainant alleges that Respondent Connell failed to properly report aggregate contributions to the Hat PAC in the Committee's financial disclosure statements.
8. General Statutes § 9-608 (c) (1) provides:

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.

9. The Commission has previously held that failing to report aggregate contributions is a violation of General Statutes § 9-608. See *In the Matter of a Complaint of William P. Horan, Jr., East Hartford*, File No. 2011-126.
10. A review of the financial disclosure statement the Committee was required to file on January 11, 2016 reveals that no aggregate contribution amounts were included in the reporting for one (1) of twenty-one (21) contributors.

11. Accordingly, with regard to the financial disclosure statement the Respondent was required to file on behalf of the Committee on January 11, 2015, Respondent Connell failed to disclose aggregate amounts of contributions, in violation of General Statutes § 9-608
12. In the absence of aggravating factors, such as evidence that a failure to disclose aggregate contributions was intended to obscure the total amount of a contributions, the Commission has previously elected not to assess a large civil penalty for a first violation of General Statutes § 9-608 of this type. *In the Matter of a Complaint of William P. Horan, Jr., East Hartford*, File No. 2011-126
13. Respondent Connell has been responsive to Commission staff in this investigation and the omission of aggregate contributions appears to have been an inadvertent error.
14. Respondent Connell has had no prior history with the Commission.

COUNT II

15. Complainant alleged that the Hat PAC failed to report expenditures that were made prior to the election.
16. General Statutes § 9-606 (a) provides:

The treasurer of each committee shall be responsible for (1) depositing, receiving and reporting all contributions and other funds in the manner specified in section 9-608, (2) making and reporting expenditures, (3) *reporting expenses incurred but not yet paid*, (4) filing the statements required under section 9-608, and (5) keeping internal records of each entry made on such statements.

(emphasis added).

17. General Statutes § 9-608 (a) further provides, in relevant part:

Each treasurer of a committee, other than a state central committee, shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603, . . . if the committee has made or received a contribution or expenditure in connection with any other election, a primary or a referendum, on the seventh day preceding the election, primary or referendum, . . . The statement shall be complete as of eleven fifty-nine o'clock p.m. of the last day of the month preceding the month in which the statement is required

to be filed, except that for the statement required to be filed on the seventh day preceding the election, primary or referendum, the statement shall be complete as of eleven fifty-nine o'clock p.m. of the second day immediately preceding the required filing day. The statement shall cover a period to begin with the first day not included in the last filed statement. In the case of a candidate committee, the statement required to be filed in January shall be in lieu of the statement formerly required to be filed within forty-five days following an election.

18. General Statutes § 9-623 (b) further provides, in relevant part:

(1) If any treasurer fails to file any statement required by section 9-608, or if any candidate fails to file either (A) a statement for the formation of a candidate committee as required by section 9-604, or (B) a certification pursuant to section 9-603 that the candidate is exempt from forming a candidate committee as required by section 9-604, within the time required, the treasurer or candidate, as the case may be, shall pay a late filing fee of one hundred dollars.

(2) In the case of any such [financial disclosure] statement or certification that is required to be filed with the State Elections Enforcement Commission, the commission shall, not later than ten days after the filing deadline is, or should be, known to have passed, notify by certified mail, return receipt requested, the person required to file that, if such statement or certification is not filed not later than twenty-one days after such notice, the person is in violation of section 9-603, 9-604 or 9-608.

....

(4) The penalty for any violation of section 9-603, 9-604 or 9-608 shall be a fine of not less than two hundred dollars or more than two thousand dollars or imprisonment for not more than one year, or both.

19. A review of the Commission's records and evidence gathered in the course of the investigation reveals that the Hat PAC did purchase an advertisement in a local newspaper promoting certain candidates prior to the election November 3, 2015 election.

20. While the Hat PAC did not pay the invoice for this ad until January, 2016, it had incurred the obligation to pay this invoice prior to the November 3, 2015 election.

21. While Respondent Connell was not the treasurer of the Committee at the time the expense was incurred, Respondent Connell did file a financial disclosure statement on January 7, 2016 covering the period that included the date when cost for the advertisement in question was incurred.
22. Respondent Connell, on the face of the January 7, 2016 financial disclosure statement of the Hat PAC, signed and dated a certification which stated "I hereby certify and state, under penalties of false statement, that all of the information set forth on this Itemized Campaign Finance Disclosure Statement for the period covered is true, accurate and complete."
23. Respondent Connell did not include the cost of the advertisement in question as an expense incurred but not yet paid in the financial disclosure statement filed on January 7, 2016.
24. Respondent Connell did report the expenditure for the payment for the above referenced advertisement in the April 10, 2016 financial disclosure statement of the Committee.
25. In the absence of evidence that omitting an incurred, but not yet paid expenditure was intentional or willful, the Commission has held that such reporting violations are "minor" and "not serious." *In the Matter of a Complaint of Peter Steele*, New Britain, File No. 2013-142.
26. As Respondent Connell included the as-paid expenditure for the advertisement in the April 10, 2016 financial disclosure statement for the Hat PAC, and has been responsive in the course of this investigation, and the advertisement did contain the proper attribution, the Commission finds that Respondent Connell has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
27. There is no known prior history of similar acts or omissions by the Respondent.

TERMS OF GENERAL APPLICATION

28. 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.
29. 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.
30. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent regarding this matter.
31. 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.

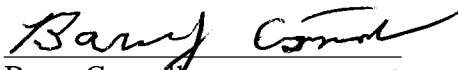
ORDER

It is hereby ordered that the Respondent shall henceforth strictly adhere to the requirements of General Statutes §§ 9-606 and 9-608.

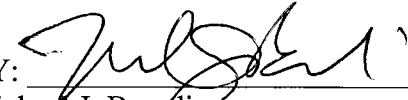
It is further ordered that the Respondent shall pay a two hundred dollar penalty (\$200) for the violation of General Statutes § 9-608 in Count I.

It is further ordered that the Respondent shall pay two hundred dollar penalty (\$200) for the violations of General Statutes §§ 9-606 and 9-608 in Count II.

The Respondent:


Barry Connell
29 Benedict Road
Bethel, CT 06801
0925-2016

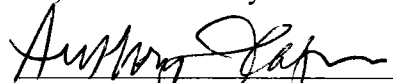
For the State of Connecticut:

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

Dated: _____

Dated: 10/3/16

Adopted this 12 day of DLT, 2016 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission

RECEIVED
STATE ELECTIONS

OCT 3 2016

ENFORCEMENT COMMISSION