

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

In the Matter of a Complaint by Timothy Herbst, Trumbull

File No. 2016-057

**FINDINGS AND CONCLUSIONS**

The Complainant brought this matter alleging that the Respondent Democratic State Central Committee (“DSCC”) unlawfully received a benefit from a business entity by retaining, but failing to pay for the services of the law firm of Silver, Golub, & Teitell, LLC in association with the law firm’s defense of the DSCC in *In the Matter of a Complaint by Jerry Labriola, Wallingford*, File No. 2014-126.

After an investigation of the Complaint, the Commission makes the following findings and conclusions:

**Background**

1. On or about October 17, 2014, the complaint in the *Labriola* matter, supra, was filed with the SEEC, alleging, inter alia, that the DSCC unlawfully expended funds from its federal account to promote the candidacy for governor of Dannel Malloy.
2. Also on or about October 17, 2014, the Republican Party of Connecticut filed an action in the Connecticut Superior Court against the DSCC and Governor Malloy’s candidate committee seeking a declaration that the alleged expenditure asserted in the *Labriola* complaint was unlawful, an injunction against spending any further federal funds on materials referencing a state candidate, an injunction against using any materials referencing a state candidate that were already produced, and an injunction ordering Governor Malloy’s candidate committee to return the entire Citizen’s Election Fund grant of \$6,500,400 to the State of Connecticut. See *Republican Party of Connecticut v. Democratic Party of Connecticut*, Superior Court, judicial district of Hartford, Docket No. HHD-CV14-6054730-S. After oral arguments, the DSCC filed a Motion to Dismiss asserting, inter alia, that the Republican Party had failed to exhaust its administrative remedies before the SEEC. The Republican Party’s motion was accepted by the Court, J. Robaina, and the matter was dismissed on or about October 30, 2014.
3. On or about May 28, 2015, during the investigation of the *Labriola* matter, the Commission authorized an investigatory subpoena for the DSCC pursuant to its authority under General Statutes § 9-7b and § 9-7b-28 of the Regulations of Connecticut State Agencies. The DSCC declined to appear for the investigatory subpoena or remit any of the documents and/or

records requested. Accordingly, the SEEC filed a Petition for Enforcement of Subpoena with the Connecticut Superior Court on or about August 6, 2015. See *State of Connecticut Elections Enforcement Commission v. Connecticut Democratic State Central Committee*, Superior Court, judicial district of Hartford, Docket No. HHD-CV15-6061373-S.

4. On or about August 6, 2015 the DSCC filed an action in Connecticut Superior Court seeking a declaratory ruling that federal law preempted state law under the facts relevant to the investigation in the *Labriola* matter. See *Connecticut Democratic State Central Committee v. State of Connecticut Elections Enforcement Commission*, Superior Court, judicial district of Hartford, Docket No. HHD-CV15-6061345-S.
5. On or about June 15, 2016, the parties in both of the aforementioned cases before the Superior Court submitted a Joint Motion for Stipulation for Judgment<sup>1</sup> asking the Court to accept the parties' proposed Stipulated Judgement and Settlement Agreement resolving all of the aforementioned matters, including the *Labriola* matter before the SEEC, in exchange for, inter alia, certain agreements by the DSCC regarding spending money to support candidates for state offices—including the agreement that it was possible for the DSCC to comply with both state and federal law and the methodology by which this would occur— as well as a remittance of \$325,000 to the Connecticut General Fund in quarterly payments of no less than \$31,100 after an initial payment of \$45,000.<sup>2</sup> The Court, J. Robaina, accepted the parties' Joint Motion on or about June 16, 2016.
6. In all of the above-captioned matters the law firm of Silver, Golub, & Teitell, LLC filed appearances on behalf of, and did represent, the DSCC as the sole counsel of record.
7. Additionally, the law firm was involved in two federal matters that shared facts with the *Labriola* complaint—a Request for an Advisory Opinion filed on October 1, 2014 with the Federal Election Commission and then later withdrawn that same month, and an investigation by the United States Department of Justice, which involved grand jury proceedings throughout 2016 and part of 2017.<sup>3</sup>

### **Complaint**

8. The Complaint here, filed approximately six weeks after the approval of the aforementioned Stipulated Judgement and Settlement Agreement, alleges that “the Connecticut Democratic Party has failed to pay a single invoice for legal work done in connection to their ongoing

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<sup>1</sup> Attached hereto.

<sup>2</sup> The DSCC made a final payment of \$135,200 on or about September 29, 2017.

<sup>3</sup> See CT Mirror “CT Dems say federal fundraising inquiry ends without charges” by Mark Pazniokas, February 2, 2017 (<https://ctmirror.org/2017/02/02/ct-dems-say-federal-fundraising-inquiry-ends-without-charges/>)

litigation with the State Elections Enforcement Commission.” The Complainant asserted that the failure to invoice and/or report and/or pay for the services of Silver, Golub, & Teitell, LLC constituted an illegal contribution from a business entity and a violation of the terms of the Stipulated Judgement and Settlement Agreement.

**Response**

9. The Respondent DSCC responded promptly to the instant matter, as follows:

Attorney Golub and certain partners in his firm provided uncompensated legal services on the DSCC’s behalf in this matter in accordance with Conn. Gen. Stat. § 9-601b(b)(4). With regard to non-waivable expenses incurred by Attorney Golub or his firm in this representation, Attorney Golub and the DSCC agreed at the outset of Attorney Golub’s representation that such expenses would be billed and paid at the conclusion of the representation. As you are aware, this matter continues as does Attorney Golub’s representation. However, to avoid any issue, please note that Attorney Golub’s firm is submitting a bill at this time for non-waivable expenses from the two recent Superior Court lawsuits involving the DSCC and the SEEC.

10. The Respondent law firm, through Counsel David Golub, responded in pertinent part:

My representation of the DSCC is, in fact, ongoing. However, my firm has now submitted an invoice to the DSCC for the non-waivable expenses attributable to our representation of the DSCC in connection with the Labriola Complaint, including the two Superior Court cases in which we represented the DSCC that have now been concluded. This invoice includes all out-of-pocket firm expenditures and a pro rata allocation of my firm’s administrative overhead and non-partner services.

11. The Respondent law firm submitted an invoice to the DSCC totaling \$29,952.87, of which \$4,704.59 constituted costs incurred by the law firm from outside sources (e.g., Court reporter, video deposition, etc.)
12. Subsequent to the aforementioned invoice, the DSCC reported to the Federal Election Commission a payment to the law firm of \$4,704.59 and a remaining debt and obligation owed of \$25,248.28. This reported debt and obligation remains unpaid

**Law**

13. General Statutes § 9-601a reads, in pertinent part:

(a) As used in this chapter and chapter 157, “contribution” means:

(1) Any gift, subscription, loan, advance, payment or deposit of money or anything of value, made to promote the success or defeat of any candidate seeking the nomination for election, or election or for the purpose of aiding or promoting the success or defeat of any referendum question or the success or defeat of any political party;

(2) A written contract, promise or agreement to make a contribution for any such purpose;

(3) The payment by any person, other than a candidate or treasurer, of compensation for the personal services of any other person which are rendered without charge to a committee or candidate for any such purpose;

(4) An expenditure that is not an independent expenditure; or

(5) Funds received by a committee which are transferred from another committee or other source for any such purpose.

(b) As used in this chapter and chapter 157, “contribution” does not mean:

...

(4) Uncompensated services provided by individuals volunteering their time on behalf of a party committee, political committee, slate committee or candidate committee, including any services provided for the benefit of nonparticipating and participating candidates under the Citizens' Election Program and any unreimbursed travel expenses made by an individual who volunteers the individual's personal services to any such committee. For purposes of this subdivision, an individual is a volunteer if such individual is not receiving compensation for such services regardless of whether such individual received compensation in the past or may receive compensation for similar services that may be performed in the future; . . .

**Analysis**

14. Turning to the question of whether Attorney Golub and others at his law firm could voluntarily contribute their time, they were permitted to do so without such time constituting a contribution from the law firm, pursuant to the exception found in General Statutes § 9-601a (b) (4). However, no subordinate attorneys could be “volunteered” by the firm, or any cost incurred by the firm without such an act creating an obligation for the DSCC to reimburse the law firm or incur an unlawful benefit from a business entity.
15. Here, Attorney Golub and other partners were free to volunteer their time without such constituting a contribution to the DSCC. As such, the firm correctly invoiced the DSCC for only its non-voluntary costs incurred and no business entity contribution occurred.
16. Further, the Commission concludes that with respect to the remaining allegations, the Commission has entered a settlement agreement with the DSCC related to the 2014 election cycle and the issues detailed in the multiple administrative, state, and federal proceedings detailed in paragraphs one through seven. As such, the Commission declines to re-open these 2014 matters.
17. Going forward, the Stipulated Judgement and Settlement Agreement controls allocations between the DSCC accounts.
18. Considering the aforesaid, this matter should be dismissed.

**ORDER**

The following Order is recommended on the basis of the aforementioned findings:

That the matter is dismissed.

Adopted this ~~14~~<sup>23</sup>th day of March, 2018 at Hartford, Connecticut.



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Anthony J. Castagno, Chairperson  
By Order of the Commission