

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Steven Sheinberg, Fairfield

File No. 2016-077B

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Thomas McCarthy (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:

FACTUAL BACKGROUND

1. At all times relevant hereto, Anthony Hwang was an elector in the State of Connecticut and an incumbent State Senator.¹
2. On March 26, 2015, Mr. Hwang registered an exploratory committee for statewide office, Tony Hwang for CT. Richard Kopchayak was the treasurer of that committee when it was formed. The original registration indicated that Mr. Hwang was exploring a candidacy for statewide office in 2016. This was an error as there was no statewide election in 2016. Accordingly, Mr. Hwang amended his registration on June 30, 2015 to accurately reflect that he was exploring for statewide office in 2018. On December 14, 2015, Respondent Hwang amended his registration to install Thomas McCarthy as the treasurer, replacing Mr. Kopchayak.²
3. On or about April 5, 2015, Mr. Hwang placed an order for advertising on Chip’s restaurant placemats. The order was for “one annual print minimum 250,000 per Chip’s location.” One of the five Chip’s locations was within the Respondent Hwang’s senatorial district. The advertisements contained the exploratory committee logo, the exploratory committee attribution, and material generally promotional of Mr. Hwang. There was no mention of 2016 or the state senate. The cost for this advertising was \$4,250.00. Mr. Hwang used his personal credit card to pay for the advertisements on September 18, 2015 to the printer, Top Line Consulting. Tony Hwang for CT reimbursed Respondent Hwang on December 28, 2016, after the instant complaint had been filed.

¹ Allegations concerning Anthony Hwang shall be addressed in a separate document.

² Allegations in the Complaint concerning Richard Kopchayak have been dismissed as Mr. Kopchayak died on January 14, 2016.

ALLEGATION

4. It is alleged that expenditures paid for directly by Mr. Hwang were not properly reported in financial disclosure statements of Tony Hwang for CT filed by the Respondent.

LAW

5. General Statutes § 9-608 (a) requires that each treasurer of a committee file periodic financial disclosure statements concerning the financial activities of such committee.
6. General Statutes § 9-608 (c) specifically provides, in pertinent part:

(1) Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to: . . . (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[.]

7. Failure accurately report such information subjects a committee treasurer to civil penalties of up to \$2000 per violation. General Statutes § 9-7b.

ANALYSIS

8. Mr. Hwang paid for the aforementioned placemat advertising on April 5, 2015. However, the expenditure was not reported on the Tony Hwang for CT financial disclosure statements until the report that was filed on January 7, 2017. In the interim, the committee filed six financial disclosure statements on for the filing periods ending July 10, 2015; October 13, 2015; January 11, 2016; April 11, 2016; July 11, 2016; and October 11, 2016 that failed to include this incurred but not yet paid expenditure.
9. It should also be noted that even when these expenditures were reported, such reports failed to include the secondary payees for the reimbursement as required by General Statutes § 9-608.
10. From December 14, 2015 until the present day, Respondent McCarthy has served as treasurer of Tony Hwang for CT.
11. Accordingly, the Commission finds that Respondent McCarthy violated General Statutes § 9-608 by failing to report the aforementioned expenditures by Respondent Hwang as incurred but not yet paid on the January 11, 2016; April 11, 2016; July 11, 2016; and October 11, 2016 financial disclosure statement. The Commission further finds that the

Respondent failed to report the secondary payees relating to the reimbursement for the placemat advertising.

12. While the Commission considers failing to disclose financial transactions in financial disclosure statement to be a serious matter, when such failure is the result of an honest misunderstanding or mistake, the Commission has elected not to pursue a civil penalty. See *In the Matter of a Complaint by Frank Capone, East Haven*, File No. 2015-106.
13. In this case, the Respondent became the treasurer of Tony Hwang for CT after the expenditure for the placemats had been made, and was likely not aware of the expenditure until the reimbursement was issued. While treasurers are responsible obtain this information, the Commission considers it a mitigating factor in assessing a penalty for this violation. Moreover, the Commission finds that this violation was not intentional.
14. The Commission further notes that, in the course of the investigation, the Respondent voluntarily disclosed two additional expenditures in 2017 for placemat advertising that had been paid for by Mr. Hwang but had not yet been reimbursed. The Respondent has agreed to make such reimbursements out of Committee funds and amend all financial disclosure statements to accurately reflect all expenses of the committee, including those incurred but not yet paid. This Consent Order shall resolve any violations concerning that activity.

TERMS OF GENERAL APPLICATION

15. 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.
16. 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.
17. 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.

18. 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 comply with General Statutes § 9-608.

It is further ordered that the Respondent shall immediately reimburse Mr. Hwang for all expenses he has incurred on behalf of the Tony Hwang for CT and amend all financial disclosure statements to accurately reflect all financial transactions.

For the Respondent

By: Thomas McCarthy
Thomas McCarthy
15 Lovers Lane
Fairfield, CT 06824

For the State of Connecticut:

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

Dated: 12/6/17

Dated: 12/7/17

Adopted this 20 day of December, 2017 at Hartford, Connecticut by vote of the Commission.

Salvatore A. Bramante
Anthony J. Castagno, Chairman
By Order of the Commission
SALVATORE A. BRAMANTE

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STATE ELECTIONS

DEC 07 2017

ENFORCEMENT COMMISSION