

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Michael Pohl, Manchester,

File No. 2016-090B

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Respondent Timothy M. Devanney 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:

1. At all times relevant hereto, Respondent Timothy M. Devanney was the treasurer of the Lorraine 4 CT candidate committee.
2. The Lorraine 4 CT candidate committee was a committee formed, pursuant to Connecticut law, as the funding source for Lorraine Marchetti's State Senate campaign.
3. The Complainant alleges that the Respondent, in his capacity as treasurer of the Lorraine 4 CT candidate committee, authorized an expenditure for a political advertisement which advocated for the election of candidates other than Lorraine Marchetti.¹
4. A treasurer of committee established pursuant to Title 9 of the General Statutes may only authorize expenditures "for the lawful purpose of the committee." General Statutes § 9-607.
5. Moreover, General Statutes § 9-607 (g) (1) provides, in pertinent part:

As used in this subsection, (A) "the lawful purposes of the committee" means: (i) For a candidate committee or exploratory committee, the promoting of the nomination or election of the candidate who established the committee, except that after a political party nominates candidates for election to the offices of Governor and Lieutenant Governor, whose names shall be so placed on the ballot in the election that an elector will cast a single vote for both candidates, as prescribed in section 9-181, a candidate committee established by either such candidate may also promote the election of the other such candidate;

See also, SEEC Declaratory Ruling 2011-03; *Complaint of Arthur W. Mocabee, Jr., Bristol*, File No. 2007-340; *Complaint of Lesa C. Peters, Woodbury*, File No. 2012-004.

¹ Allegations concerning the Respondents Matthew Galligan and Madhu Reddy shall be addressed in a separate document.

6. In this case, the Lorraine 4 CT did include, as part of an advertisement promoting Lorraine Marchetti, a statement clearly promoting two other candidates, Mark Tweedie and Prasad Srinivasan. There is no evidence or allegation that the Tweedie or Srinivasan campaigns were aware of this expenditure.
7. The Lorraine 4 CT campaign committee paid for the entirety of this advertisement.
8. In SEEC Declaratory Ruling 2011-003, the Commission has held that:

Several indicia will factor into the analysis of whether a share of the costs of a communication must be allocated to a particular candidate committee, including but not limited to the following: whether the candidate appears or is identified in the communication; when the communication was created, produced, or distributed; how widely the communication was distributed; and what role the candidate or an agent of the candidate played in the creation, production and/or dissemination of the communication.

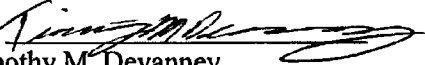
9. In this case, the advertisement included a photograph of all three candidates and the statement that each candidate had been endorsed by the "Independent Party." The entire cost of production and distribution of the advertisement was approximately \$260. Among the towns where the advertisement was distributed were towns where both Ms. Marchetti and Mr. Srinivasan or Ms. Marchetti and Mr. Tweedie were candidates. The advertisement ran in the months immediately leading up to the November 8, 2016 election.
10. Based upon the forgoing, it is clear that the costs of the advertisement in question should have been allocated to all three campaigns.
11. Thus, even if this expenditure was done without the knowledge of, or approval by, the Tweedie or Srinivasan campaigns, the portion of the advertisement promoting Mr. Tweedie and Mr. Srinivasan were, nevertheless, a prohibited expenditure by the Lorraine 4 CT committee for the benefit of Tweedie and Srinivasan campaigns. See *In the Matter of a Referral by Peter von Braun, Greenwich*, File No. 2015-192B.
12. Accordingly, the Respondent, in making such expenditures, was in violation of General Statutes § 9-607.
13. As evidenced by the Commission's decision to initiate a declaratory ruling in this area, improper expenditure of committee funds on another candidate is a matter the Commission takes seriously. See SEEC Declaratory Ruling 2011-03; *Complaint of Arthur W. Mocabee, Jr., Bristol*, File No. 2007-340; *Complaint of Lesa C. Peters, Woodbury*, File No. 2012-004. *In the Matter of a Referral by Peter von Braun, Greenwich*, File No. 2015-192B.

14. However, in light of the facts that: 1) the violation appears to have been an isolated event; 2) the Respondent has had no prior history of similar acts or omissions before the Commission; and 3) a relatively small amount of money was spent on the advertisement – the Commission elects not to assess a civil penalty.
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 Respondent Timothy Devanney shall henceforth comply with the requirements of General Statutes § 9-607.

Respondent Devanney:

By: 
Timothy M. Devanney
63 Eva Drive
Manchester, CT 06042

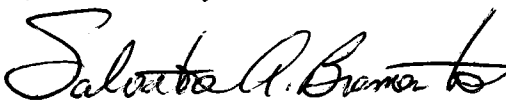
For the State of Connecticut:

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

Dated: 5/5/2017

Dated: 5/5/17

Adopted this 17th day of MAY, 2017 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission
Salvatore A. Bramante, Vice Chair

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STATE ELECTIONS

MAY 05 2017

ENFORCEMENT COMMISSION