




**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**  
**Citizens' Election Program**

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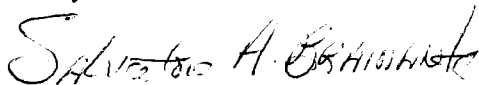
*Resolution and Order Setting Forth Specified Proceedings  
for Pending Declaratory Ruling Petition*

Pursuant to General Statutes § 4-176 (e) and Connecticut Agency Regulations § 9-7b-65 (c), it is hereby resolved and ordered that the following proceedings are set regarding a Declaratory Ruling Petition on behalf of Derek Donnelly, regarding Secondary Payees and Polling Expenditures, received by the Commission on February 26, 2019:

- (a) The Commission directs staff to issue notice of receipt of a petition for declaratory ruling on the SEEC website, and via email to all persons who have requested notice of declaratory rulings;
- (b) The Commission directs staff to present a research memorandum and recommendation of counsel regarding secondary payees and polling expenditures at its regular meeting scheduled for April 17, 2019;
- (c) The Commission further directs staff to draft a Proposed Declaratory Ruling 2019-03 for consideration by the Commission at its regular meeting scheduled for May 15, 2019; and
- (d) If the Commission votes to publish for comment the proposed Declaratory Ruling at this May 15, 2019 meeting, the Commission shall direct staff to post notice of the proposed Declaratory Ruling on the SEEC website and to send notice to all persons who were sent notice of the receipt of the petition, with a comment period to close at 11:59 p.m. on June 12, 2019 (one week prior to the regular Commission meeting on June 19), 2019. If the Commission does not vote to publish for comment the proposed draft at the May 15, 2019 meeting, the Commission shall set an alternative schedule and direct any further proceedings as necessary.

  
Anthony J. Castagno, Chairperson - *Vice*  
By Order of the Commission

3/20/19  
Date



# Derek E. Donnelly, Esq.

February 25, 2019

Michael Brandi, Esquire  
Director and General Counsel  
State Elections Enforcement Commission  
20 Trinity Street  
Hartford, CT 06106  
Via E-Mail ( [Michael.Brandi@ct.gov](mailto:Michael.Brandi@ct.gov) ) and  
U.S. Mail

## **Re: Revised Petition for Declaratory Ruling Regarding Secondary Payees and Polling Expenditures**

Dear Attorney Brandi:

This is a revision to my letter of February 4, 2019. I am writing to request that your agency issue a Declaratory Ruling regarding Polling expenditures and Secondary Payees.

Under Connecticut General Statutes § 9-607(g)(2)(S) listing permissible expenditures, any treasurer may pay the expense of:

“conducting polls concerning any political party, issue, candidate, or individual.”

Additionally, C.G.S. § 9-608(c)(1)(B), requires that when itemizing each expenditure a treasurer includes:

“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.”

As you are aware, the term “Secondary Payee” is otherwise undefined by State Statute.

It is common knowledge that political polling companies do not own their own call centers and that political pollsters contract with call centers to perform data collection for their polls. In a cursory review of publicly available polling expenses incurred over the past year, there are no secondary payees recorded by any of the multiple committees that listed polling expenses. This is not surprising as there is no direction to treasurers, that I am aware of, to record secondary payees for polling expenses. Further, the use of passive language of the statute could be interpreted as the legislation not intending for treasurers to have an active role in determining whether secondary payees exist.

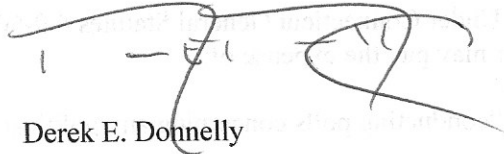
However, the broad number of expenditures related to polling leads to several questions that should be explained. Does the use of a call center by a polling company qualify as “charges which the primary payee has already paid or will pay directly to another person, vendor, or entity” under CGS Sec. 9-608(c)(1)(B)? If so, does common polling industry knowledge constitute that the expenditures are “known to include” secondary payees or does that information need to be personally known by the specific treasurer?

I hereby request a Declaratory Ruling regarding to answer the following questions:

- (1) How is the phrase "known to include" defined under C.G.S. § 9-608(c)(1)(B)? Does it include common knowledge?
- (2) Does the use of a call center [a subcontractor, subvendor, or entity] not owned by the primary payee [polling company] require disclosure by the treasurer in the listing of secondary payee?
- (3) Is a primary payee such as a pollster required by law to disclose a secondary payee such as a call center, when asked by a treasurer?
- (4) Does a treasurer have an affirmative obligation to determine whether secondary payees exist? If so, what are the requirements to do so?

Please provide specific statutory authority for all such positions. I look forward to hearing from you.

Sincerely,



Derek E. Donnelly