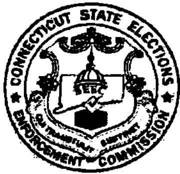


STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

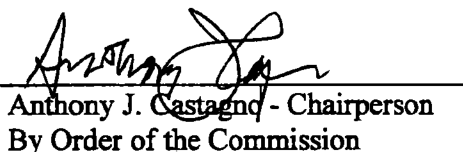
Resolution and Order Setting Forth Specified Proceedings for Petition for Declaratory Ruling Requested on Behalf of Joseph P. Ganim Regarding Applicability of General Statutes § 9-706 (a) (5)

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 the Petition for a Declaratory Ruling for Hon. Joseph P. Ganim Regarding Applicability of General Statutes § 9-706 (a) (5), received by the Commission on April 7, 2017, from attorney Arnold Skretta:

(1) The Commission directs staff to issue notice of receipt of a petition for declaratory ruling on the SEEC website, and via e-mail to all persons who have requested notice of declaratory rulings;

(2) The Commission directs staff to draft a Proposed Declaratory Ruling 2017-01 for consideration by the Commission at its regular meeting scheduled for June 21, 2017;

(3) If the Commission votes to approve the proposed Declaratory Ruling at this June 21, 2017 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, which a comment period to close at 11:59 p.m. on July 11, 2017 (prior to the regular Commission meeting on July 19, 2017). If the Commission does not vote to approve the proposed draft at the July 19, 2017 meeting, the Commission shall set an alternative schedule and any further proceedings as necessary.



Anthony J. Castagno - Chairperson
By Order of the Commission

19 April 2017
Date

20 Trinity Street • Hartford, Connecticut • 06106–1628
Phone: (860) 256-2940 • Toll Free-CT Only: 1-866-SEEC-INFO • Email: SEEC@ct.gov • Internet: www.ct.gov/seec
Affirmative Action / Equal Opportunity Employer

ARNOLD F. SKRETTA, ATTORNEY AT LAW
P.O. BOX 130
GUILFORD, CT 06437

EMAIL
Arnold@ctcomplianceandlaw.com

TELEPHONE
(203) 533-7171

April 7, 2017

Delivered via Electronic Mail

Mr. Michael Brandi
Executive Director and General Counsel
State Elections Enforcement Commission
20 Trinity Street
Hartford, CT 06016

RE: Petition for a Declaratory Ruling for Hon. Joseph P. Ganim Regarding Applicability of Conn. Gen. Stat. § 9-706(a)(5).

Dear Mr. Brandi:

This Petition for a Declaratory Ruling is being filed with the State Elections Enforcement Commission ("SEEC" or "Commission") on behalf of the Honorable Joseph P. Ganim ("Petitioner"), mayor of the City of Bridgeport, pursuant to Conn. Gen. Stats. §§ 4-175 and 4-176 and § 9-7b-64 of the Commission's Rules of Practice. We also request an expedited public comment period, and speedy consideration and review by the Commission.

This Petition requests the Commission to declare that Conn. Gen. Stat. § 9-706(a)(5) (and therefore §§ 9-706(b)(11) and (12)) is not applicable to Petitioner, and therefore Petitioner be permitted to participate fully in the Citizens' Election Program (CEP) in current and/or future election cycles, and thereby avail himself of Connecticut's hallmark clean elections program, including accepting low-dollar CEP-compliant qualifying contributions, recording and disclosing said contributions accordingly, making application for the CEP grant, and ultimately being awarded the public grant funds necessary to conduct an effective campaign under Connecticut's regulatory scheme.

Petitioner ***should*** be permitted to participate in the CEP. This is not merely a matter of a candidate pursuing a public grant in order to level the electoral playing field, although as discussed below, this is vital given the CEP's 100% participation rate by candidates for statewide office. It is a commitment by Mr. Ganim to embrace Connecticut's clean elections program.

This request for acceptance into the program is consistent with the State of Connecticut's commitment to second chances that is embodied in legislation and state policies.[1]

Simply stated, Mr. Ganim is looking for the same equal opportunity, if he should decide to seek state elected office, to participate in the clean and fair public financing system that has transformed Connecticut's elections for the better. If he should run for such an office, he seeks the honor and privilege of being among those who can say they came to office free of special interest money. Conn. Gen. Stat. § 9-706(a)(5) creates an illogical system whereby Mr. Ganim, currently the mayor of Connecticut's largest city, can run for and be elected to the highest offices in State government but cannot apply for public financing from the Citizen's Election Fund to run such a campaign. § 9-706(a)(5) precludes his participation in the CEP while burdening his First and Fourteenth Amendment rights, as well as by distorting the democratic process. This statute lacks any rational basis.

The Commission should declare that Petitioner may participate in the CEP for the reasons stated below, which may be considered cumulatively and/or in the alternative:

I. Conn. Gen. Stat. § 9-706(a)(5) is illogical, punitive and serves no legitimate, rational public policy interest;

II. Conn. Gen. Stat. § 9-706(a)(5) was enacted in 2013 and cannot be *retroactively* applied to Petitioner's case/circumstances; and

III. Protections provided by the Article I, Section 9 (prohibition on ex post facto laws) and the First and Fourteenth Amendments of the United States Constitution, and Article First, Section 5 and Article XXI of the Constitution of the State of Connecticut, would render § 9-706(a)(5)(B) invalid on its face and as applied to Mr. Ganim.

<u>Factual Background</u>

Joe Ganim was first elected mayor of Bridgeport in 1991 and served 5 terms (over 11 years) in office. However, following an exhaustive federal investigation and prosecution in 2003 - some 14 years ago – Petitioner was convicted of federal felonies related to the public office. Charges included: 18 U.S.C. § 1962(c); 18 U.S.C. § 1962(d); 18 U.S.C. § 1951; 18 U.S.C. §§ 1341 & 1346; 18 U.S.C. § 666(a)(1)(B); 18 U.S.C. § 371; and 26 U.S.C. § 7206(1).[2]

In 2010, after serving over six years in prison, Mr. Ganim was released and returned home to start rebuilding his life. He restored his voting rights and renewed his status as an elector of the state of Connecticut (a requisite to run for public office). In 2015, Mr. Ganim ran for mayor – again – and was re-elected Mayor of Bridgeport on November 3, 2015. As Mr. Ganim continues

[1] *E.g.,* Conn. Gen. Stat. § 21a-279, et seq. *See also* S.B. 952 (2015).

[2] *U.S. v. Ganim,* 510 F.3d 134 (2nd Cir., 2007)

to serve again in elected office he fights for the City of Bridgeport, as well as "second chances" for all individuals. Mr. Ganim is further committed to open and transparent government – starting directly in Bridgeport.

Amidst some speculation that Mr. Ganim could be considered a potential statewide candidate in 2018, a recent newspaper article noted that if he should he do so, he would be blocked from access to Connecticut's public funding of campaigns because of his prior felony conviction. Upon review of the applicable Connecticut statute(s), Mr. Ganim continues to look to the future, which necessitates an answer to the very questions presented in this Petition.

The program known as the Citizens' Election Program was enacted in 2005 and became effective in 2006. The system provides pubic grants to candidates who voluntarily agree to abide by low-dollar qualifying contributions (primarily from individuals permitted to give under the program) and spending caps for their campaigns. Contributions from individuals doing business with the state are strictly prohibited and state lobbyist contributions are highly regulated. Conn. Gen. Stat. § 9-706(a)(5) however, was enacted much later under Public Act 13-180/House Bill No. 6580, effective June 18, 2013.[3] "In [the CEP's] inaugural run for General Assembly campaigns in 2008, a total of 78 percent of the legislators elected came to office using the Program. Thus, more than three-quarters of the sitting legislature could say they came to office without relying on special interest funds."[4] In 2014, 100% of candidates for statewide office, Republicans and Democrats alike, participated in the CEP. While Petitioner opposes § 9-706(a)(5) specifically, the CEP as a whole stands out as a national model for clean elections laws.

Legal Argument

I. Conn. Gen. Stat. § 9-706(a)(5) Is Illogical and Serves No Legitimate Public Policy Interest

First –Conn. Gen. Stat. § 9-706(a)(5) ("Grant applications and payment") is an illogical and punitive statute that serves no legitimate nor rational public policy interest. Section 9-706(a)(5) reads:

> Notwithstanding the provisions of this subsection, no candidate may apply to the State Elections Enforcement Commission for a grant from the fund under the Citizens' Election Program if such candidate has been convicted of or pled guilty or nolo contendere to, in a court of competent jurisdiction, any (A) criminal offense under this title unless at least eight years have elapsed from the date of the conviction or plea or the completion of any sentence, whichever date is later, without a subsequent conviction of or plea to another such offense, or (B) *a felony related to the individual's public office*,

[3] P.A. 13-180/House Bill No. 6580 (2013).

[4] State Elections Enforcement Commission, Citizens' Election Program 2010: A Novel System with Extraordinary Results (2011).

other than an offense under this title in accordance with subparagraph (A) of this subdivision. Id. (emphasis added).

According to subsection (A) above, an individual convicted of a criminal offense under Title 9 (Elections) of the General Statutes becomes eligible for participation in the CEP 8 years following the last day of any sentence. Firstly, bear in mind the offenses addressed by this statute are limited to those found under Title 9 (Elections) - not *most* crimes, which are found under Title 53 (Crimes). In addition to that quizzical detail, subsection (B) makes it so that individuals convicted of a *felony related to the individual's public office* face a lifetime ban on participating in a clean elections program that was intended to fetter out and eliminate public corruption.

This is confounding because if Conn. Gen. Stat. § 9-706(a)(5) was really about clean elections (as the legislature certainly intended and the entire CEP contends to be) then it would *require* - not ban – the participation of individuals like Petitioner and others similarly situated. Conn. Gen. Stat. § 9-706(a)(5) makes even less sense considering the unique circumstances of Petitioner, who already holds a position of public trust as the sitting mayor of Bridgeport, Connecticut's largest city, where he was reelected by an overwhelming majority of the vote.

For reasons of logic, we urge the Commission to determine that section B does not present a lifetime bar to Petitioner (and those similarly situated) from participating in the CEP. Notwithstanding our assertion that the statute serves no legitimate public policy interest, if the Commission determines it does, then the statute presents serious retroactivity and constitutional challenges, as we discuss below.

II. Retroactive Application of Conn. Gen. Stat. § 9-706(a)(5) Not Intended, Not Appropriate

Conn. Gen. Stat. § 9-706(a)(5) should not be applied retroactively to Petitioner because his conviction occurred a full decade *before* § 9-706(a)(5) was even contemplated (and approximately fourteen years prior to the filing of this Petition), and the legislature did not expressly or even impliedly make this statute retroactive. Therefore, retroactive application of § 9-706(a)(5) was not the legislature's intent. The CEP was established in 2005 and became effective in 2006. However, Conn. Gen. Stat. § 9-706(a)(5) was enacted in Public Act 13-180 (House Bill No. 6580), which only became effective on June 18, 2013. In reviewing the legislative history of P.A. 13-180 there is no mention of retroactive application.[5]

As an initial matter, it is important to note that Chapter 141 (General Provisions) of Title 9 of the General Statutes is completely silent regarding retroactive application of any part of Title 9 - as is Chapter 157 (Citizen's Election Program).

Retroactive applicability of laws, though disfavored by courts, is sometimes tolerated in civil law if the legislature expressly intended a statute to be retroactive and the statue does not otherwise

[5] See attached Exhibits A and B. Exhibit A – transcript of floor debate, Connecticut General Assembly, House of Representatives, Friday, May 31, 2013 at page 433. Exhibit B attached – transcript of floor debate, Connecticut General Assembly, Senate, Monday, June 3, 2013 at page 231.

present undue hardship (or punishment) in its application. Yet "[a] statute will not be given a retroactive construction by which it will impose liabilities not existing prior to its passage." *Massa v. Nastri*, 125 Conn. 144, 2 A.2d 839 (1939). *See* AGO 1990-041.

The Connecticut Supreme Court discusses retroactivity at length in *D'Eramo v. Smith*, 273 Conn. 610 (2005). They explain:

> Whether to apply a statute retroactively or prospectively depends upon the intent of the legislature in enacting the statute. . . . Our point of departure is General Statutes § 55-3, which states: *No* provision of the general statutes, *not* previously contained in the statutes of the state, which imposes any new obligation on any person or corporation, shall be construed to have retrospective effect. The obligations referred to in [§ 9-706(a)(5)] are those of substantive law. . . ."It is a rule of construction that legislation is to be applied prospectively unless the legislature clearly expresses an intention to the contrary." In civil cases, however, unless considerations of good sense and justice dictate otherwise, it is presumed that procedural statutes will be applied retrospectively.... Procedural statutes have been traditionally viewed as affecting remedies, not substantive rights, and therefore leave the preexisting scheme intact." . . . "[A]lthough we have presumed that procedural or remedial statutes are intended to apply retroactively absent a clear expression of legislative intent to the contrary ... a statute which, in form, provides but a change in remedy but actually brings about changes in substantive rights is not subject to retroactive application." *Id.* at 620-21. (2005) (citations omitted, emphasis added).

The *D'Eramo* case is instructive for several reasons. First *D'Eramo* shows that the Connecticut Supreme Court firmly believes a statute must be applied prospectively only (unless remedial, *meaning* beneficial or benevolent, or procedural) - and not retroactively - *unless* the legislative intent is crystal clear that it was meant to be applied retroactively. With respect to § 9-706(a)(5) at issue in this Petition, the statute has no retroactive clause in its text, and the full legislative record discloses no intent on the part of the General Assembly to make the law retroactive. Second, the Connecticut Supreme Court states, and Petitioner reiterates here, "a statute which, in form, provides but a change in remedy but actually brings about changes in substantive rights is not subject to retroactive application" *Id.* at 621. § 9-706(a)(5) serves as a complete bar to Petitioner from participating in the CEP - a substantive benefit that virtually every other candidate enjoys. This is no mere procedural hurdle, it is a substantial roadblock to viability as a candidate when forced to compete against candidates that have been granted participation in the CEP.

Third, a legal trend emerges with § 9-706(a)(5). Later in this petition we explain that § 9-706(a)(5) is actually a punitive measure masquerading as a civil law; in reality and application it is aimed only at levying an additional, extra-criminal punishment on Petitioner (thereby implicating the Ex Post Facto Clause of the U.S. Constitution). In the pure civil context discussed in *D'Eramo* and now – retroactivity cannot be proper because we are dealing with a substantive change in the statute, not a mere procedural hurdle. Thus, no matter the context in which § 9-706(a)(5) is discussed, it is actually more punitive and substantive than it purports to be when read in isolation. A law that is fundamentally improper should not avoid scrutiny simply because it is framed in a more benign, acceptable manner.

In the U.S. Supreme Court case of *Bowen v. Georgetown University Hospital*, 488 U.S. 204 (1988) - which specifically applies to administrative agency settings - Justice Kennedy wrote:

> "Retroactivity is not favored in the law. Thus, congressional enactments and administrative rules will not be construed to have retroactive effect unless their language requires this result. . . By the same principle, a statutory grant of legislative rulemaking authority [common in administrative settings] will not, as a general matter, be understood to encompass the power to promulgate retroactive rules unless that power is conveyed by Congress in express terms . . . Even where some substantial justification for retroactive rulemaking is presented, courts should be reluctant to find such authority absent an express statutory grant." *Id.* at 208-209.

Although numerous circuit and district court cases have distinguished cases from *Bowen*, it remains good law and is particularly insightful because it deals directly with administrative agencies. Admittedly there are numerous Connecticut state cases ruling retroactive application of civil laws permissible, particularly in the context of (by example and not limitation) levying taxes and programmatic insurance reimbursements. But in those cases, the statutes invariably included an express retroactive clause, with a date definite for retroactive application. That is not the case here, and it is illuminating because the legislature was fully aware of how to properly draft a retroactive statute. With Conn. Gen. Stat. § 9-706(a)(5), the legislature chose to not include a retroactivity clause within the statute, even though they easily could have, and certainly knew how to.

Because retroactive application of Conn. Gen. Stat. § 9-706(a)(5) is not delineated in the statute itself, it could only be derived from the legislative history of the statute. Upon inspection of the legislative history, including the transcripts covering both the House and Senate floor debates from 2013, one cannot conclude the statute was ever meant to be retroactive. There is no mention whatsoever of retroactivity in either the House or Senate transcripts. Please note the legislative record is included as additional attachments/exhibits to this Petition.

In short, there is no express statement of retroactive application in the statute itself; likewise, there is no statement – either express or implied – in the legislative history of P.A. 13-180/House Bill No. 6580 to permit retroactive application of the statute. Therefore the Commission must not apply Conn. Gen. Stat. § 9-706(a)(5) retroactively to Petitioner.

Note that if the Commission determines that § 9-706(a)(5) is retroactively applicable, such a determination would invoke the Due Process and Equal Protection clauses of the United States Constitution and the Constitution of the State of Connecticut. The fact is, § 9-706(a)(5) purports to be a civil law, but is punitive in nature, and thereby also implicates the Ex Post Facto Clause in Article I, Section 9 of the U.S. Constitution.

III. Unconstitutionality of Conn. Gen. Stat. § 9-706(a)(5)

A. Ex Post Facto Clause, Due Process and Equal Protection

Retroactive laws and the ex post facto clause are related, but differing concepts. As a general matter, it is well established that ex post facto laws – those laws that retroactively increase *criminal* punishment – are strictly forbidden under clause 3, Article I Section 9 of the United States Constitution. However, the Ex Post Facto Clause is generally not applicable in the civil law context, unless a civil law is deemed to be punitive in nature.

A punitive civil law can invoke the Ex Post Facto Clause in Article I, Section 9 of the United States Constitution. In order to determine whether a law is actually punitive in nature, we look to the U.S. Supreme Court case of *Smith v. Doe*, where Justice Souter's concurrence succinctly maps out "a two-step enquiry to see whether a law is punitive for purposes of various constitutional provisions including the *Ex Post Facto* Clause. At the first step in applying the so-called *Kennedy-Ward* test, we ask whether the legislature intended a civil or criminal consequence; at the second, we look behind the legislature's preferred classification to the law's substance, focusing on its purpose and effects." *Smith v. Doe,* 538 U.S. 84,107 (2003). Justice Kennedy's majority opinion further explains:

> We must "ascertain whether the legislature meant the statute to establish `civil' proceedings."... If the intention of the legislature was to impose punishment, that ends the inquiry. If, however, the intention was to enact a regulatory scheme that is civil and nonpunitive, we must further examine whether the statutory scheme is "`so punitive either in purpose or effect as to negate [the State's] intention' to deem it `civil.'" ... Because we "ordinarily defer to the legislature's stated intent," ... "`only the clearest proof' will suffice to override legislative intent and transform what has been denominated a civil remedy into a criminal penalty. *Id. at 89* (citations omitted).

In *Smith*, the legislature expressed their intent – to protect the public - in the statute itself. Such an explicit expression of legislative intent is not embodied in § 9-706(a)(5), which instead merely states a rule that will deny specific individuals – those with a felony record related to public office – from participating in the CEP. Therefore it is necessary to look at the legislative history. While the CEP became effective in 2006, Conn. Gen. Stat. § 9-706(a)(5) was not enacted until much later in 2013. The legislative history bears little to no information on their intent in passing this particular statute, other than plain language of banning those with a criminal record related to their public office from ever participating in the CEP. Most of the legislative record expounds on the CEP as a whole – not on § 9-706(a)(5) in particular - as a means to help reduce/eliminate the corruptive influence of money in politics.
No rational conclusion can be drawn from the statute, nor the very thin legislative history, other than it was meant to punish those individuals who have – presumably, and like Petitioner - already paid their debt to society through their earlier prosecution, criminal conviction, and punishment. We posit that § 9-706(a)(5) is "so punitive [both] in purpose [and] effect as to negate [the State's] intention' to deem it `civil. *Id.* Simply put - this statute is an *additional* punishment imposed on Petitioner.

Petitioner lost his law license, spent more than six years in prison, and has had to rebuild his life from scratch. In a tremendous example of 2nd chances – he was overwhelmingly re-elected mayor of Bridgeport in 2015. Yet despite having served his time and dealing with tremendous public stigma and scrutiny, Petitioner now faces another punitive measure under § 9-706(a)(5),

ironically aimed at keeping him from running for statewide public office under Connecticut's clean elections paradigm. Note: the implications of an interpretation denying the Petitioner access to the CEP could also serve to deny him access to the CEP should he ever decide to run for state senator or state representative.

Due of the efficacy of the CEP (100% participation by all Democratic and Republican candidates for statewide office in the most recent election), to not be part of the CEP is a heavy burden on one's candidacy for state office(s). Being barred from the CEP is a major obstacle to Petitioner's potential candidacy for state office(s), despite Petitioner's proven viability as an electoral candidate. Therefore, because it disproportionately impacts Petitioner, and those similarly situated, and there is a distinct possibility of this injury recurring in the future, it violates the Equal Protection clauses of the U.S. and Connecticut Constitutions. While we acknowledge there is qualifying criteria that all candidates must meet in order to participate in the CEP, Conn. Gen. Stat. § 9-706(a)(5) stands out from such other criteria because it identifies a specific class of persons that are completely prohibited from taking part – in any way - in the CEP. This is *not* a matter of not fulfilling the prerequisites to be awarded a grant – this is a matter of not even having the opportunity to attempt to fulfill those prerequisites.

Therefore, Conn. Gen. Stat. § 9-706(a)(5) deprives Petitioner of a benefit otherwise readily available to other candidates – even those who are not ultimately awarded the CEP grant. The law singles out specific people – or as applied, Petitioner alone – and shuts him out from partaking in the program in which 100% of Petitioner's would-be opponents will likely indulge. As such, this law is both punitive, and violates the Due Process and Equal Protection clauses of the constitutions of the United States and the State of Connecticut.

B. First Amendment - Freedom of Speech

Finally - it is necessary to address the glaring First Amendment issues at stake under Conn. Gen. Stat. § 9-706(a)(5). Following numerous cases over the last several decades – and no matter how much most reform groups loath the fact - money *is* speech, at least under the current campaign finance paradigm. *See, Buckley v. Valeo,* 424 U.S. 1 (1976); *Colorado Republican Federal Campaign Committee v. FEC,* 518 U.S. 604 (1996); *McConnell v. Federal Election Commission,* 540 U.S. 93 (2003); *Citizens United v. Federal Election Commission,* 558 U.S. 310 (2010); *McCutcheon v. Federal Election Commission,* 134 S.Ct. 1434 (2014). This concept forms the foundation of why the CEP was established in the first place – to prevent the corruptive influence of money in politics.

But in a twist of irony, § 9-706(a)(5) locks out those who – despite having a felony conviction related to the their public office – now wish to walk a tighter line and comply with a more rigorous and respectable clean elections law. Petitioner *wants* to abide by lower contribution limits. Petitioner *wants* to abide by a cap on campaign spending. Petitioner *wants* to be subject to a higher degree of scrutiny on the raising, spending and reporting of funds from his potential campaign. All of this makes particular sense but the statute at issue could prevent him from doing so.

At the same time there has been a political evolution in Connecticut elections. As the CEP grows and prospers, certainly in widespread candidate participation, it has also evolved into a program most candidates (whether they'll admit it or not) *must* be a part of in order to compete. Donors are weary of candidates not participating in the CEP. The CEP grant is often more than most candidates (again, whether they admit it or not) could practicably raise outside the CEP. So as the CEP becomes more robust with greater participation, it has likewise become very difficult for candidates *not* participating in the CEP to compete due to an inability to raise and spend in a similar fashion to their CEP counterparts.

Then in 2013 – seemingly out of nowhere, at least by the documented legislative history - along came § 9-706(a)(5), which could bar Petitioner from participating in a regulatory scheme that 100% of his *would-be* opponents are most likely participating in and benefiting from. Petitioner therefore does not have the amplifier to his speech that his opponents have. In fact, in a perversion of the CEP, the State would essentially be endorsing the speech of Petitioner's would-be opponents, while chilling Petitioner's own political speech. Curtailing *who* may receive a CEP grant by establishing a particular class of persons banned from participation in the CEP equates to limiting the free speech of the non-CEP candidate, and even perhaps even worse, governmental endorsement of those candidates whom the State has permitted to participate.

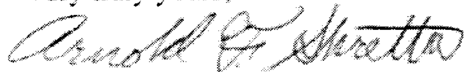
Therefore, Conn. Gen. Stat. § 9-706(a)(5) also violates the First Amendment of the United States Constitution as well as Article First, Section 5 of the Constitution of the State of Connecticut.

Conclusion

For the foregoing reasons, we respectfully request the State of Connecticut Elections Enforcement Commission *declare* that Conn. Gen. Stat. § 9-706(a)(5) (and therefore §§ 9-706(b)(11) and (12)) is not applicable to Petitioner, cannot be applied to Petitioner, and would otherwise be deemed unconstitutional if applied to Petitioner, and therefore Petitioner be permitted to participate in the Citizens' Election Program of the State of Connecticut in current and/or future elections. We also request that the Commission move forward with all phases of the Petition quickly, including an expedited public comment period.

Thank you for your attention to this Petition and do not hesitate to contact me if you have additional questions.

Very truly yours,



Arnold F. Skretta

cc: Shannon Kief and Joshua Foley (via electronic mail)

EXHIBIT A

Will the Clerk please call Calendar number 303?

THE CLERK:

Yes, Mr. Speaker, on page 10 of yesterday's calendar, Calendar number 303, House Bill 6580, AN ACT CONCERNING FAILURE TO FILE A REPORT OF AN INDEPENDENT EXPENDITURE.

SPEAKER SHARKEY:

Representative Jutila.

REP. JUTILA (37th):

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER SHARKEY:

Question is on acceptance of the Joint Committee's favorable report and passage of the bill. Will you remark, sir?

REP. JUTILA (37th):

Thank you, Mr. Speaker. Yes, Mr. Speaker, in 2010, the U.S. Supreme Court rendered its decision in Citizens United versus the Federal Elections Commission and that decision opened the flood gates to

independent expenditures that threaten to unduly influence our electoral process.

Accordingly, we have a bill before us tonight, or this morning, I should say, intended to address this influx of new money into our system, reset the playing field and make other improvements to our campaign finance laws. The Court in Citizens United held that restricting independent expenditures invalid under the First Amendment to the Constitution.

The Court also told us that disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper and transparent way enabling the electorate to make informed decisions and give proper weight to different speakers and messages, thus, reaffirming the validity of disclosure requirements.

At the same time, the court upheld the validity of disclaimers. So, these are the two tools that the Court gave us to work with after Citizens United -- disclosure and disclaimers. Mr. Speaker, hidden money especially when it comes from sources outside of our state, has no place in our electoral process. This bill will help to shine a light on that money so that we know who is behind it and where it's coming from.

Some of the key elements of the bill include changes in reporting disclosure and disclaimer requirements for independent expenditures.

The bill expands the disclaimer requirements to cover all persons which is a broader definition than just entities. It makes changes to certain key definitions, particularly, contributions and expenditures. It also creates some new definitions, particularly covered transfers; it raises the limits on certain contributions from individuals and political committees and party committees; raises the aggregate limit on contributions an individual can make in a single election cycle.

It -- sorry. Mr. Speaker the Clerk has in his possession an Amendment, its LCO 8405. I would ask that the Clerk please call the Amendment and that I be granted leave to summarize.

SPEAKER SHARKEY:

Representative Jutila, could you clarify the LCO number?

REP. JUTILA (37th):

Sorry, Mr. Speaker, 8418.

SPEAKER SHARKEY:

Eight four one eight, thank you. Will the Clerk please call LCO number 8418, which will be designated House Amendment "A"?

THE CLERK:

Yes, Mr. Speaker. House Amendment "A", LCO 8418, introduced by Representative Jutila.

SPEAKER SHARKEY:

The gentleman has as asked leave of the Chamber to summarize.

Is there objection? Is there objection?

Seeing, none, you may proceed with summarization, sir.

REP. JUTILA (37th):

Thank you, Mr. Speaker. I got a little ahead of myself at the early hour here. Once again, to summarize some of the key elements, it changes reporting, disclosure and disclaimer requirements for independent expenditure, expands the disclaimer requirements to cover the broad definition of persons; it makes changes to certain definitions and adds an important new definition for covered transfers; raises the limits on certain contributions; authorizes candidate committees, other than those participating in the citizens election program to distribute surplus

funds to veterans organizations; it prohibits individuals who have committed certain crimes that are specified in the amendment from serving as campaign treasurers or from applying for grants under the citizens election program; it makes changes affecting the member terms of the state election enforcement commission including permitting members to be reappointed for a second term; it increases the maximum penalties for a failure to file independent expenditures reports and knowing and willful campaign finance violations; it allows additional citizens elections program grants in the event of a tie in primary or general election and makes certain conforming and technical changes and I would urge adoption.

SPEAKER SHARKEY

Question before the Chamber is adoption of House Amendment "A". Will remark? Will you remark further?

The Distinguished Minority Leader, Representative Cafero.

REP. CAFERO (142nd):

Thank you so much, Mr. Speaker. I have a few questions to the proponent of the Amendment.

SPEAKER SHARKEY:

Please proceed, sir.

REP. CAFERO (142nd):

Thank you. First of all, through you, Mr. Speaker, I presume that the Amendment that's before us if adopted would become the bill, is that correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Jutila.

REP. JUTILA (37th):

Through you, Mr. Speaker, yes, it is a strike all Amendment.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you so much, Mr. Speaker. Thank you, Representative Jutila. Ladies and Gentlemen of the Chamber, I have been blessed. Blessed to be a part of this General Assembly for now 21 years. And, in this Chamber over that period of time, I've seen a lot of history, been a part of a lot of history and that truly is for all of us, a privilege. And, it wasn't too long ago that we sat in this Chamber and we as a General Assembly, our predecessors as a legislature, claimed to make history.

We adopted what we called campaign finance reform. You see, we told the world on that day that we here in Connecticut want to do things differently. We had heard the complaints, the cynicism, the criticisms about our campaign system in America and in this state, that there was too much money, too much temptation for bad things to happen. There was too much negativity; people were sick and tired of turning on their television or opening their mailbox and hearing one candidate for public office bash yet another candidate for public office.

We were sick and tired of hearing about all the money that special interest groups could poor into campaigns and we in Connecticut were going to do it different. We in Connecticut were going to clean up our act. We were going to open the windows and let the sun shine in. We were going to allow the public to know those people who were running for office, those people who were seeking their vote, those people who hope to represent them in government at any level. We're doing so openly and honestly.

That's what our goal was and we passed a bill that claimed made history and here we are eight years later and in the dark of night, or I should say early

morning, we have another bill before us and here it is. A bill that has several sections to it; a bill that is several pages long, I think 98 pages to be exact; a bill that purports to do all the things the good Representative said it does in his summary and I think it's important that as we decide whether we'll vote for this bill or not, we know what's in it.

One of the things that I inquired about without LCO is how many sections of this bill actually had a public hearing. How many sections of this bill did we open up those windows to and let the public in to comment and I found out that 23 concepts, 23 concepts that are contained in this bill, never had a public hearing, never had a public hearing.

How many times have we heard as we go through our own elections or watch those on a national level or even a local level, that so many people, focus groups, our neighbors, our friends say, we're tired of all the negativity, we're tired of the bashing, I can't take another commercial, I don't want to see another mailer in my mailbox with the shady pictures and the negative attacks on one's opponent. To heck with you all, we heard our neighbors and family and friends say.

And, we were going to be different, here in Connecticut. In fact, one of the things we said that I actually was so proud of, was that if we here in Connecticut are going to be negative, if we're going to attack our opponent, then you candidate for public office got to own it. If you're going to do it, you got to stand by it, you got to say you paid for it, if you're going to have that negative ad against Joe Smith and say he or she is not good, they're wrong for Connecticut, they did X, Y and Z, at the end of your ad you're going to say this ad was a paid for and approved by Larry Cafero or fill in the blank.

We had a concept here in Connecticut that if you're going to go negative, you're going to own it. And, the theory was that when you had to put your name behind it, your own name as you yourself was running for office, maybe you would think twice before you perpetuated that negativity. It wasn't a bad idea -- in fact, a darn good idea.

Because, as we all know in our own campaigns or those that we've been involved in, when you have to put your name at the end of a negative ad, you're going to think twice about it. You're going to think twice about it. The reason I bring that up is, the

bill that's before us changes that concept. It changes that concept.

And, I want to call the Chambers attention to page six and seven of the bill, lines 173 to 178. You see, as we know in our current election laws, there are other organizations that are allowed to help us all when we run for public office. They're allowed to assist us with what we call organizational expenses. Oh, the republicans have our various pacts and organizations, as do the democrats here in the House and in the Senate.

And, these organizations were allowed to help us with organizational expenses. But, we said when we made history eight years ago, that those organizations could not, could not, go negative because we believed as a state once again, that if a candidate for public office chooses to go negative, he or she had to own it.

So, why do I call your attention to lines 173 through 178? Because, it changes the rule. It allows those very organizations, those organizations that can't be directly associated with a particular candidate. Maybe it's state central committee, republican or democrat; maybe it's the House

republicans or House democrat organization or Senate republican, or Senate democrat organization, that under current law cannot go negative.

They can only advocate or assist the candidate in their advocacy. We're now allowing them to expend funds for not only the success of a candidate, but for the defeat of another. We are allowing these organizations to go negative. We are saying that we no longer believe that if you're going to go negative, you got to stand behind it as a candidate.

Through you, Mr. Speaker to Representative Jutila, in the lines I am referring to 173 through 178, am I correct in reading and interpreting that section to mean that these organizations that I've referred to, would now be allowed to communicate on behalf of a candidate for their success or their defeat? Is that correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Jutila.

REP. JUTILA (37th):

Through you, Mr. Speaker, that is correct.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Ladies and gentlemen, that's a big change and I would suggest to you it's a broken promise. It's a broken promise. So, when we're out there on that campaign trail and we hear our friends and neighbors and relatives at the supermarket or the soccer game during especially that election season, complaining how their sick and tired of all the negativity, we've got to realize that if this bill passes, we contributed to that and we expanded that.

Ladies and gentlemen, one of the other things we did when we made history eight years ago was to say we were going to limit money in politics, that there was too much of it, that we didn't know where it came from, that we had to limit -- do you remember those debates, the hours of them? Oh, how good many felt about saying just that, too much money was special interests, we're going to limit it.

In fact, that was part of the crux or having campaign or public campaign money. It allowed us as candidates not to have to worry about going and raising a nickel or a dollar here and there. We could focus on the issues, said we. It was clean, it was right. I want to point your attention to page 28, line 858 and in that line we deal with contribution

limits to state parties, legislative caucuses and legislative pacts.

Other political pacts and unions -- I'm referring to section seven A of the amendment that's before us. Through you, Mr. Speaker to Representative Jutila, does that section increase the amount that can be contributed to those entities? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Jutila.

REP. JUTILA (37th):

Through you, Mr. Speaker, to the distinguished Minority Leader, yes, it does.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker, by how much does it allow that increase to take place?

SPEAKER SHARKEY:

Representative Jutila.

REP. JUTILA (37th):

Through you, Mr. Speaker, in the case of contributions that are to the state central committee, it would increase from 5,000 to 10,000; in the case of

a town committee from 1,000 to 2,000 and in the case of a legislative caucus committee or legislative leadership committee from 1,000 to 2,000 and from other political committees from $750 to $1,000. Through you.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker and with the exception of the last reference that you made, it seems to me that these contribution limits have doubled or increased in other words, by 100 percent. Is that accurate? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Jutila.

REP. JUTILA (37th):

Through you, Mr. Speaker, that is correct. I would also note that except in the case of the last one, they have not been increased since the 80's. Through you.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Ladies and gentlemen of the Chamber, I call your attention to section 28 A, B, C, and D, page 76, lines 2430 through 2461. In it, it talks about the fact that our state parties, both republican and democrat, currently can assist candidate committees such as those of us running for State Representative or those of us running for State Senator.

Right now it allows the state party to assist or contribute if you will, towards that candidacy in the case of a State Rep up to $3,500 and in the case of a State Senator, up to $10,000. Through you, Mr. Speaker, how would this amendment in those lines change the amounts of those contributions?

SPEAKER SHARKEY:

Representative Jutila.

REP. JUTILA (37th):

Through you, Mr. Speaker, the contributions from the state central committee would not be limited. Through you.

SPEAKER SHARKEY:

Representative Cafero.

REP. CAFERO (142nd):