

JUL 19 2007

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
ENFORCEMENT
COMMISSION

In the Matter of a Complaint by
Anthony Joseph Razel, East Hampton

File No. 2007-159

AGREEMENT CONTAINING CONSENT ORDER AND PAYMENT OF A
CIVIL PENALTY FOR VIOLATIONS
OF CONN. GEN. STATS. §9-333h, §9-333i & § 9-333j.

This agreement by and between Theodore W. Hintz of the Town of East Hampton, County of Middlesex, State of Connecticut hereinafter referred to as Respondent, and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Respondent was Treasurer of "Friends of Bill Devine," a candidate committee established by William Devine, the Republican candidate for state representative from the 34th General Assembly District in the November 7, 2006 state election.
2. The Complainant filed a complaint alleging that the Respondent committed numerous reporting errors and omissions in a statement of receipts and expenditures filed for the committee on January 8, 2007, in violation of Chapter 150, Connecticut General Statutes.
3. The January 8, 2007 report was filed on the Campaign Finance Information System (C.F.I.S.), the electronic filing system for campaign finance reporting previously maintained by the Office of the Secretary of the State. The report at issue covered the period between October 25 and December 31, 2006. The applicable law therefore is Chapter 150 and applicable sections prior to the January 1, 2007 re-codification and the effective date of Public Act 05-5.
4. Specifically, Complainant identified the following alleged errors pertaining to the committee's January 8, 2007 Statement of Receipts and Expenditures of *Friends of Bill Devine*:
 - a. An October 26, 2006 contribution in the amount of \$1,783 reported by the committee as received from *itself*.
 - b. An October 30, 2006 contribution in the amount of \$5,000 reported as received from "EH REPUBLICAN CAMPAIGN" which Complainant alleges is the East Hampton Republican Town Committee that is not reported by that committee.
 - c. Anonymous contributions in the amount of \$210 reported by the Committee.

- d. Disclosure by the Committee of two purchases of advertisements from a program booklet for fundraising affairs, although no fundraisers are disclosed.
- e. Failure to use the correct expenditure code for the December 29, 2006 distribution of surplus to the EHRTC in the amount of \$327. 53.
- f. Two "negative expenditures" reported as: -\$1,000 to/from Comcast on 12/28/2006 and -\$110 to/from Rivereast on 12/28/2006.
- g. Failure to disclose check numbers of expenditures by the Committee, and failure to disclose occupation and employers of contributors in excess of \$100; and
- h. A newspaper reported two fundraisers by the Committee, but a failure to disclose fundraisers on its financial statement.

4. Connecticut General Statutes § 9-333h (Rev. 2005), provides in pertinent part:

(a) The campaign treasurer of each committee shall be responsible for (1) *depositing, receiving and reporting all contributions and other funds in the manner specified in section 9-333j*, (2) making and reporting expenditures, (3) reporting expenses incurred but not yet paid, (4) filing the statements required under section 9-333j, and (5) *keeping internal records of each entry made on such statements*. The campaign treasurer of each committee shall deposit contributions in the committee's designated depository within fourteen days after receiving them. ...

(b) A contribution in the form of a check drawn on a joint bank account shall, for the purpose of allocation, be deemed to be a contribution made by the individual who signed the check. If a check is signed by more than one individual, the total amount of the check shall be divided equally among the cosigners for the purpose of allocation. *If a committee receives an anonymous contribution of more than fifteen dollars the campaign treasurer shall immediately remit the contribution to the State Treasurer.* The State Treasurer shall deposit the contribution in the General Fund.

(c) The campaign treasurer of each committee, other than a political committee established by an organization which receives its funds from the organization's treasury, may appoint solicitors. *If solicitors are appointed, the campaign treasurer shall receive and report all contributions made or promised to each solicitor. Each solicitor shall submit to the campaign treasurer a list of all contributions made or promised to him.* The list shall be complete as of seventy-two hours immediately preceding midnight of the day preceding the dates on which the campaign treasurer is required to file a sworn statement as provided in section 9-333j. *Lists shall be received by the campaign treasurer not later than twenty-four hours immediately preceding each required filing date.* ... [Emphasis added.]

5. Connecticut General Statutes § 9-333i (Rev. 2005), provides in pertinent part:

... (f) The campaign treasurer shall preserve all internal records of transactions required to be entered in reports filed pursuant to section 9-333j for four years from the date of the report in which the transactions were entered. Internal records required to be maintained in order for any permissible expenditure to be paid from committee funds include, but are not limited to, contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or other lawful purpose of the expenditure. If a committee incurs expenses by credit card, the campaign treasurer shall preserve all credit card statements and receipts for four years from the date of the report in which the transaction was required to be entered. If any checks are issued pursuant to subsection (e) of this section, the campaign treasurer who issues them shall preserve all cancelled checks and bank statements for four years from the date on which they are issued. If debit card payments are made pursuant to subsection (e) of this section, the campaign treasurer who makes said payments shall preserve all debit card slips and bank statements for four years from the date on which the payments are made. In the case of a candidate committee, the campaign treasurer or the candidate, if the candidate so requests, shall preserve all internal records, cancelled checks, debit cards slips and bank statements for four years from the date of the last report required to be filed under subsection (a) of section 9-333j.
[Emphasis added.]

6. Connecticut General Statutes § 9-333j (Rev. 2005), provides in pertinent part:

(a) (1) Each campaign treasurer of a committee, other than a state central committee, shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-333e, (A) *on the tenth calendar day in the months of January, April, July and October*, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, the statement shall be filed on the next business day, (B) on the seventh day preceding each regular state election, except that (i) in the case of a candidate or exploratory committee established for an office to be elected at a municipal election, the statement shall be filed on the seventh day preceding a regular municipal election in lieu of such date, and (ii) in the case of a town committee, the statement shall be filed on the seventh day preceding each municipal election in addition to such date, and (C) if the committee has made or received a contribution or expenditure in connection with any other election, a primary or a referendum, on the seventh day preceding the election, primary or referendum. ...

(c) (1) Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to: (A) *An itemized accounting of each contribution, if any, including the full name and complete address of each contributor and the amount of the contribution;* (B) *in the case of anonymous contributions, the total amount received and the denomination of the bills;* (C) *an itemized accounting of each expenditure, if any, including the full name and complete address of each payee, including 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, the amount and the purpose of the expenditure, the candidate supported or opposed by the expenditure, whether the expenditure is made independently of the candidate supported or is an in-kind contribution to the candidate, and a statement of the balance on hand or deficit, as the case may be;* ... (F) *for each business entity or person purchasing advertising space in a program for a fund-raising affair, the name and address of the business entity or the name and address of the person, and the amount and aggregate amounts of such purchases;* Each campaign treasurer shall include in such statement (i) *an itemized accounting of the receipts and expenditures relative to any testimonial affair held under the provisions of section 9-333k or any other fund-raising affair, which is referred to in subsection (b) of section 9-333b, and (ii) the date, location and a description of the affair. ...*

(3) Contributions from a single individual to a campaign treasurer in the aggregate totaling thirty dollars or less need not be individually identified in the statement, *but a sum representing the total amount of all such contributions made by all such individuals during the period to be covered by such statement shall be a separate entry, identified only by the words "total contributions from small contributors".*

(e) (1) Notwithstanding any provisions of this chapter to the contrary, in the event of a surplus the campaign treasurer of a candidate committee or of a political committee, other than a political committee formed for ongoing political activities or an exploratory committee shall distribute or expend such surplus within ninety days after a primary which results in the defeat of the candidate, an election or referendum not held in November or by January thirty-first following an election or referendum held in November, in the following manner:

(A) *Such committees may distribute their surplus to a party committee, ... provided no candidate committee may distribute such surplus to a committee which has been established to finance future political campaigns of the candidate; ...*

[Emphasis added]

8. The \$1,783 reported by the committee on its January 8 statement as a "contribution" from itself, is attributable to monetary receipts that were received by the committee at an October 28 fundraiser. Specifically, the \$1,783 was derived from the profits from sales of hamburgers, hot dogs and French fries, minus a reimbursement to Markham Meadows Campground for costs of food purchased. In addition, individual deposits of cash into buckets were included in this total. The names and addresses of individuals who purchased food and individual contributors were not recorded by the Respondent.
9. Respondent was required to maintain internal records with the name and address of all individuals that purchased food from the committee or made contributions in order to maintain amounts of aggregate individual contributions to the committee. The failure to maintain such records leaves the Respondent unable to reconstruct the source of funds.
10. Respondent violated Conn. Gen. Stat. §§ 9-333j(c)(1)(A) and 9-333j(c)(4) by failing to properly disclose contributions received as described in paragraph 8 above. Even if such contributors were under the itemized reporting threshold, they should have been aggregated and disclosed in Section A of the report.
11. Further, it is found Respondent violated § 9-333h(a) and § 9-333i(f) by failing to maintain internal records pertaining to the transactions referenced above in paragraph 8.
12. Finally, with regard to the \$1,783 in proceeds reported by the committee, Respondent violated § 9-333i(e) by paying a vendor out of cash proceeds at the time of the food purchases at the October 28 fundraiser, without first depositing receipts in the committee's account. The Respondent also failed to report the expenditure to Markham Meadows in violation of Conn. Gen. Stats. §9-333j(c)(1)(c).
13. The receipt of \$210 in anonymous contributions from candidate Bill Devine revealed a separate violation of Conn. Gen. Stat. § 9-333h(c), by the Respondent for failing to receive and report contributions made or promised to Bill Devine as a solicitor. Mr. Devine's actions as a solicitor are not addressed in this document.
14. As to the \$5,000 reported by *Friends of Bill Devine* on its it January 8, 2007 contribution from the "EH Republic Campaign," records indicate that it was actually from the State House Republican Campaign Committee.
15. Accordingly, Respondent failed to properly report the contribution described in paragraph 15 by correctly identifying the committee making the \$5,000 contribution in violation of Conn. Gen. Stat. § 9-333j(c)(1)(A).
16. With regard to the reporting of ad book purchases, without reporting the fundraising affairs to which they pertained, the Commission finds that there was a related October 28, 2006 fundraiser. However, such fundraiser was not reported in Section

K as required by § 9-333j(c)(1), which requires the committee to disclose the date, location and a description of the fundraising affair.

17. It is found that Respondent violated §9-333j(c)(1) by failing to disclose the date, location and a description of the fundraising affairs described in paragraphs 8 and 16 above on the January 8, 2007 financial statement of *Friends of Bill Devine*.
18. Respondent reported an expenditure to the "EH Republican (sic) Town Committee" on the January 8, 2007 financial statement of the committee. The expenditure was coded as expenditure "O," which is not a published expenditure code. It is found that this expenditure was actually a distribution of surplus and should have been disclosed as "SD."
19. The failure to accurately report the expenditure as describe in paragraph 18 above constitutes a violation of Conn. Gen. Stat. § 9-333j(c)(1)(C).
20. It is found that the allegation pertaining negative expenditures does not constitute a violation. Because the committee never issued the checks, it was not required to initially report them, and the disclosure of negative amounts was a curative consistent with advice issued by the Commission's audit staff under such circumstances.
21. Although the ED-45 form provided a data field for disclosure of check numbers in Section N Expenditures, such disclosure was not statutorily required. Therefore, it is found that no violation of law occurred by the failure to disclose the same.
22. The Respondent admits all jurisdictional facts and agrees that this agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
23. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
24. 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 contest the validity of the Order entered into pursuant to this agreement.

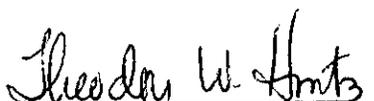
25. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

ORDER

IT IS HEREBY ORDERED THAT The Respondent shall:

- (1) Remit a civil penalty to the State Elections Enforcement Commission in the amount of one thousand two hundred and fifty (\$1,250) on or before July 9, 2007;
- (2) Amend the relevant statement of receipts and expenditures to correct the errors identified in this consent agreement and order.

The Respondent


Theodore W. Hintz, Sr.
Long Hill Road
East Hampton, Connecticut

Dated: 7/6/07

For the State of Connecticut

BY: 
Joan M. Andrews, Esq.
Director of Legal Affairs &
Enforcement &
Authorized Representative of
the State Elections
Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT

Dated: 7/19/07

Adopted this 18th day of July, 2007 at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission