

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

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ENFORCEMENT
COMMISSION
DEC 8 2008

In the Matter of a Complaint by
Matthew Kelly, Barkhamsted

File No. 2007-2

**AGREEMENT CONTAINING CONSENT ORDER
AND A CIVIL PENALTY FOR VIOLATIONS OF GENERAL STATUTES
§§ 9-606, 9-607, 9-608 (formerly 9-333h, 9-333i, 9-333j) and (Revised 2005) 9-333w**

This agreement, by and between John A. Colflesh, of the Town of Barkhamsted, County of Litchfield, State of Connecticut (hereinafter referred to as the Respondent) and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with § 9-7b-54 of the Regulations of Connecticut State Agencies and § 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Respondent is the duly designated treasurer of the Barkhamsted Republican Town Committee and has served in that position since July 2000 and at all times relevant to this complaint.
2. The Complainant filed this complaint against the Respondent alleging that the Barkhamsted Republican Town Committee (hereinafter the BRTC) violated campaign finance laws in connection with fundraisers they held at the Riverton Festival Car Show. The Complainant filed an amendment to his original complaint further alleging additional campaign finance law violations by the BRTC.
3. By way of background, the BRTC has used the Riverton Festival Car Show as an annual fundraiser since June 2003. The BRTC has also been responsible for the car show portion of the Riverton Festival since June 2003 and continuing to the present. The Riverton Festival Car Show includes a variety of events including the car show, antiques, art, food, educational and historical items along with a Dec-jay and other vendors.
4. The BRTC, in connection with the June 2006 Riverton Festival Car Show disseminated a flyer which solicited funds for the BRTC without an attribution indicating who paid for the flyer.
5. General Statutes (Rev. 2005) § 9-333w as amended by No. 05-188 of the 2005 Public Acts, provides in pertinent part,

(a) No individual shall make or incur any expenditure with the cooperation of, at the request or suggestion of, or in consultation with any candidate, candidate committee or candidate's agent, and **no candidate or committee shall make or incur any expenditure for any written, typed or other printed communication**, or any web-based, written communication, **which** promotes the success or defeat of any candidate's campaign for nomination at a primary or election or **solicits funds to benefit any political party** or committee

unless such communication bears upon its face (1) the words "paid for by" and the following: (A) In the case of such an individual, the name and address of such individual; (B) in the case of a committee other than a party committee, the name of the committee and its campaign treasurer; or (C) in the case of a party committee, the name of the committee, and (2) the words "approved by" and the following: (A) In the case of an individual making or incurring an expenditure with the cooperation of, at the request or suggestion of, or in consultation with any candidate, candidate committee or candidate's agent, the name of such individual; or (B) in the case of a candidate committee, the name of the candidate.
[Emphasis added.]

6. It is concluded that Respondent violated General Statutes (Rev. 2005) § 9-333w because the Respondent failed to include the proper attribution on the flyer that he disseminated on behalf of the "BRTC" in connection with the 2006 Riverton Festival Car Show.
7. The BRTC disclosed on their campaign finance disclosure statements that car show participants that entered their vehicles in the Riverton Festival Car Show were charged five dollars (\$5.00). Individuals that purchased tickets to see the car show were charged one dollar (\$1.00).
8. General Statutes § 9-601a provides in pertinent part:
 - (a) As used in this chapter and sections 9-700 to 9-716, inclusive, "contribution" means:
 - (1) Any gift, subscription, loan, advance, payment or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person or for the purpose of aiding or promoting the success or defeat of any referendum question or on behalf of any political party;
9. The Commission concludes that the Car Show participants that entered their vehicles in the Riverton Festival Car Show and paid five dollars (\$5.00) to enter the car show made a contribution to the BRTC. The Commission further concludes that the individuals that purchased tickets to see the car show and paid one dollar (\$1.00), made a contribution to the BRTC.
10. In 2003, the contributions received in connection with entrant fees and ticket purchases were reported in the "*Other Purchases not Considered Contributions*" section of the BRTC campaign finance disclosure statement.
11. In 2004, the contributions received in connection with entrant fees and ticket purchases were reported in the "*Anonymous Contributions*" section of the BRTC campaign finance disclosure statement.

12. In 2005, the contributions received in connection with entrant fees and ticket purchases were reported in the “*Other Purchases not Considered Contributions*” section of the BRTC campaign finance disclosure statement.
13. In 2006, the contributions received in connection with entrant fees and ticket purchases were reported in the “*Other Purchases not Considered Contributions*” section of the BRTC campaign finance disclosure statement.
14. In 2007, the contributions received in connection with entrant fees and ticket purchases were reported in the “*Total receipts from small purchases*” section of the BRTC campaign finance disclosure statement.
15. The Respondent does not have any identifying contributor information for any of the individuals that paid entrant fees for any of the Riverton Festival Car Shows, nor does he have any internal records concerning these contributions. Additionally, the Respondent does not have any contributor information for any of the individuals that purchased tickets to see the car show, nor does he have any internal records concerning the contributions received in connection with the car shows.
16. General Statutes § 9-606 (formerly 9-333h) 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 9-608, (2) making and reporting expenditures, (3) reporting expenses incurred but not yet paid, (4) filing the statements required under section 9-608, and (5) **keeping internal records of each entry made on such statements.** [Emphasis added.]
17. General Statutes § 9-607 (formerly 9-333i) 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 9-608 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 (c) 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 (c) 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 9-608.

18. General Statutes § 9-608 (formerly 9-333j) provides in pertinent part:

(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: . . .

19. The Commission has previously determined that an anonymous contribution may only be given without the contributor present and when no information about the contributor is known or provided. The treasurer must be incapable of discerning the identity of the contributor. (See *The Connecticut Campaign Finance Laws, A Guide For Municipal Candidates*, page # 7, Rev. 2003, 2004, 2005 and 2006).

20. The Commission concludes that the contributions that the Respondent received that he reported as anonymous contributions were in fact not anonymous contributions as that term is defined by the Commission.

21. The Respondent has indicated that he felt that these contributions received in connection with the Riverton Festival Car show were anonymous because he was unable to obtain the contributor information. The Commission maintains that the Respondent failed to obtain donor information at the time the contributions were made.

22. Furthermore, the Respondent reported receiving anonymous contributions on the October 7, 2004 BRTC campaign finance disclosure statement in connection with a cocktail party fundraiser held on September 28, 2004 by the BRTC. Respondent also reported receiving anonymous contributions on the October 31, 2006 campaign finance disclosure statement in connection with a cocktail party fundraiser held on September 28, 2004 by the BRTC.

23. In both instances, Respondent reported these contributions in the "Anonymous Contribution" section of the campaign finance disclosure statements. The Respondent does not have any contributor information for any of the individuals that attended the cocktail party fundraisers, nor does he have any internal records concerning the contributions received in connection with these fundraising events.

24. The Respondent contends that he does not have the required Car Show contributor information because it was maintained by a former BRTC member, who has since become disgruntled with the BRTC and taken the information. Nevertheless, Respondent acknowledges that it was his responsibility to maintain the Car Show contributor information.

25. The Commission concludes that the Respondent committed multiple violations of General Statutes §§ 9-333h(a) and 9-333i(f) between 2003 and 2006 and multiple

violations of General Statutes §§ 9-606 and 9-607 in connection with his failure to keep internal records concerning contributions relating to the fundraising events detailed above and his failure to keep an itemized accounting of each contribution, if any, including the full name and complete address of each contributor and the amount of the contribution.

26. The Respondent also committed multiple violations of General Statutes § 9-333j between 2003 and 2006 and General Statutes § 9-608 in 2007 by failing to accurately report an itemized accounting of each contribution related to the above described fundraisers.
27. 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.
28. 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.
29. 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.
30. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent shall pay a civil penalty of seven hundred and fifty dollars (\$750.00) to the Commission on or before December 10, 2008;

IT IS HEREBY FURTHER ORDERED that the Respondent shall henceforth strictly comply with the requirements of General Statutes §§ 9-606, 9-607, 9-608 & 9-621.

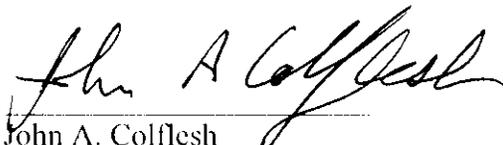
For the State of Connecticut:

BY: 
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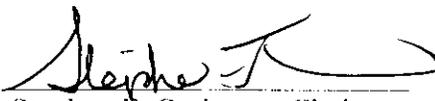
Dated: 12/8/08

The Respondent:

Dated: 12/5/08


John A. Colflesh
Barkhamsted, CT

Adopted this 11th day of December of 2008 at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission