

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of Northeast Utilities Service Company

File No. 2007-381

FINDINGS AND CONCLUSIONS

1. On October 29, 2007, the Commission received a letter from the Senior Counsel at Northeast Utilities Service Company (hereinafter referred to as "NUSCO"), disclosing voluntarily that Charles W. Shivery had renewed his fifty dollar (\$50.00) membership dues with the Connecticut Republican State Central Committee (hereinafter referred to as the "Connecticut Republicans") on or about January 25, 2007, and inquiring as to the effect it may have on NUSCO and the company's contractual relationships with various State of Connecticut agencies.
2. Charles Shivery is Chairman of the Board of Directors, President and Chief Executive Officer of NUSCO.
3. The Connecticut corporate affiliates of NUSCO include The Connecticut Light and Power Company (hereinafter referred to as "CL&P"), Yankee Gas Services Company (hereinafter referred to as "Yankee Gas"), and the Rocky River Realty Company (hereinafter referred to as "Rocky River").
4. On January 10, 2007, the Connecticut Republicans, through their Treasurer, Jerry Labriola, disseminated a solicitation letter to existing members and to potential members encouraging them to remain or to become members of the Connecticut Republican Party by paying membership dues to the Connecticut Republicans. The Connecticut Republicans is a "party committee," as that term is defined in General Statutes (Rev. 2007) § 9-601(2).
5. General Statutes (Revised 2007) § 9-612, provides in pertinent part:
 - (g) (1) As used in this subsection and subsections (h) and (i) of this section:
 - (C) "State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a fiscal year, for (i) the rendition of personal services, (ii) the furnishing of any material, supplies or equipment, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee.

(D) "State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until the termination of said contract.

(F) "Principal of a state contractor or prospective state contractor" means (i) an individual who is a member of the board of directors of, or has an ownership interest in, a state contractor or prospective state contractor, which is a business entity, except for an individual who (I) owns less than five per cent of the shares of any such state contractor or prospective state contractor that is a publicly traded corporation, or (II) is a member of the board of directors of a nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive or senior vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, (iv) an employee of any state contractor or prospective state contractor who has managerial or discretionary responsibilities with respect to a state contract, (v) the spouse or a dependent child of an individual described in this subparagraph, or (vi) a political committee established by or on behalf of an individual described in this subparagraph.

6. The Commission concludes that NUSCO has multiple agreements or contracts with the state or state agencies, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more.
7. The Commission further concludes that NUSCO is a state contractor within the meaning of General Statutes (Rev. 2007) § 9-612(g).
8. The Commission also concludes that Charles W. Shivery is a principal of a state contractor because he is the Chairman of the Board of Directors, President and Chief Executive Officer of NUSCO; additionally, Respondent is also a principal of a state contractor by virtue of his position as Chairman of CL&P, Yankee Gas and his position as President of Rocky River.
9. On January 23, 2007, Mr. Shivery, in response to the Connecticut Republicans January 10, 2007 solicitation renewed his membership dues by check in the amount of \$50.00 to the Connecticut Republicans. The Connecticut Republicans received the Respondent's check on January 25, 2007 and deposited it.

10. The payment of membership dues to the Connecticut Republicans constitutes a contribution within the meaning of General Statutes (Rev. 2007) § 9-601a.

11. General Statutes (Rev. 2007) § 9-612(g)(2), provides in pertinent part:

(A) No principal of a state contractor or prospective state contractor, with regard to a state contract, bid solicitation or request for proposals with or from a state agency in the executive branch or a quasi-public agency or a holder of a valid prequalification certificate, **shall make a contribution to**, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) **a party committee;**

(C) If a principal of a state contractor makes or solicits a contribution prohibited under subparagraph (A) or (B) of this subdivision, the contracting state agency or quasi public agency may, in the case of a state contract executed on or after December 7, 2005, void the existing contract with said contractor, and no state agency or quasi-public agency shall award the state contractor a state contract or an extension or an amendment to a state contract for one year after the election for which such contribution is made or solicited. Each state contract shall include the provisions of subparagraph (A) or (B) of this subdivision, whichever is applicable, and this subparagraph as conditions of the contract; [Emphasis added.]

12. By virtue of the above, the Commission concludes that Charles W. Shivery, a principal of a state contractor, was prohibited from making a contribution to the Connecticut Republicans by General Statutes (Rev. 2007) § 9-612(g).

13. General Statutes (Revised 2007) § 9-622 provides in pertinent part:

The following persons shall be guilty of illegal practices and shall be punished in accordance with the provisions of section 9-623:

(10) Any person who solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter;

14. As a consequence, it would appear that the Connecticut Republicans Treasurer committed an illegal practice pursuant to General Statutes § 9-622 (10) when he solicited and received a prohibited contribution from Charles W. Shivery.

15. However, General Statutes (Rev. 2007) § 9-612 in effect at the time of the solicitation provided in pertinent part:

(h) (1) Not later than July 1, 2006, each state agency and quasi-public agency shall prepare and forward to the State Elections Enforcement Commission, on a form prescribed by said commission, a list of the state contracts for which the agency is a party and a list of the principals of state contractors or prospective state contractors for (A) such contracts, and (B) any bid solicitations, requests for proposals or prequalification certificates issued by the agency. Not later than August 1, 2006, and monthly thereafter, each state agency and quasi-public agency shall forward to said commission, on a form prescribed by the commission, any changes additions or deletions to said lists. With the consent of the commission, any state agency may designate the commission to obtain such information for the purpose of preparing such lists and any changes, additions or deletions thereto.

(2) Not later than December 31, 2006, the State Elections Enforcement Commission shall (A) compile a master list of principals of state contractors and prospective state contractors for all state agencies and quasi-public agencies, based on the information received under subdivision (1) of this subsection, (B) publish the master list on the commission's Internet web site, and (C) provide copies of the master list to campaign treasurers upon request. The commission shall update the master list every three months. **Any campaign treasurer who acts in reliance on such master list in good faith shall have a complete defense in any action against the campaign treasurer for depositing a contribution in violation of subsection (g) of this section.** [Emphasis added.]

16. The Connecticut Republicans Treasurer relied in good faith on the State Elections Enforcement Commission *List Three – Principals of State Contractors Prohibited from Contributing to General Assembly Candidates – as of 12/31/06* in determining whether Mr. Shivery was a principal of a state contractor prohibited from contributing to the Connecticut Republicans. Mr. Shivery's name does not appear on the list, which at that time, was required by law to be publicized on the Commission's website.

17. Accordingly, the Treasurer of the Connecticut Republicans has a valid defense to an action that he may have violated General Statutes (Rev. 2007) § 9-622(10) by receiving a contribution prohibited by General Statutes (Rev. 2007) § 9-612(g). Notably, the defense does not extend to the solicitation of a contribution from a state contractor.

18. Nevertheless, the Commission will take no further action regarding the Connecticut Republicans since they relied in good faith on a list provided by the Commission which at that time did not contain Mr. Shivery's name. In

addition, the Commission notes that the contribution which was received by the Connecticut Republicans on January 25, 2007 was refunded by the Connecticut Republicans on October 23, 2007 after it was brought to their attention by Senior Counsel at NUSCO.

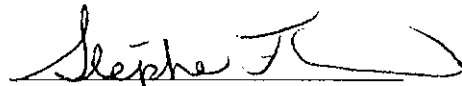
19. The Commission further notes that the law has since been amended by operation of No. 07-1 of the 2007 Public Acts and no longer provides for this "complete defense" for treasurers, instead requiring that a contributor donating over \$50.00 certify that he or she is not a principal of a state contractor.

ORDER

The following Order is recommended on the basis of the aforementioned findings:

That the matter be dismissed as to the Connecticut Republicans.

Adopted this 19th day of November 2008 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission