

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Timothy Thompson, Lebanon

File No. 2007-389

**AGREEMENT CONTAINING CONSENT ORDER AND
PAYMENT OF A CIVIL PENALTY FOR VIOLATIONS
OF CONNECTICUT GENERAL STATUTES
§§ 9-604, 9-612(a), and 9-621(a)**

This agreement, by and between Wayne Budney of the Town of Lebanon, County of Windham, 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 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. Complainant filed a complaint with the Commission alleging that the attributions on political communications generated and published by the Susan Davis campaign were false, as they identified the Lebanon Republican Town Committee as the sponsor of the materials, when in fact, the LRTC did not fund the advertisements at issue. The investigation of the complaint logically led to related issues pertaining to the Respondent, who resides with Ms. Davis.
2. Susan Brett Davis was a Republican candidate for Planning and Zoning Commission in the November 2007 municipal election in the Town of Lebanon. Ms. Davis timely filed a Registration by Candidate (SEEC Form 1) and Certificate of Exemption from Forming a Candidate Committee (SEEC Form 1B) with the Lebanon Town Clerk, on or about July 18, 2008, indicating that her candidacy would be financed by the LRTC.
3. On or about August 18, 2007, Respondent Budney qualified as a petitioning candidate for Alternate to the Planning and Zoning Commission (PZC). He won the September 11, 2007 Republican Primary and was elected to the PZC in the November 6, 2007 municipal election in the Town of Lebanon.
4. Connecticut General Statutes § 9-604 provides, in pertinent part:
 - (a) Each candidate for a particular public office or the position of town committee member shall form a single candidate committee for which he shall designate a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds and shall file a committee statement containing such designations, not later than ten days after becoming a candidate,

with the proper authority as required by section 9-603. The candidate may also designate a deputy campaign treasurer on such committee statement. The campaign treasurer and any deputy campaign treasurer so designated shall sign a statement accepting such designation which the candidate shall include as part of, or file with, the committee statement.

(b) The formation of a candidate committee by a candidate and the filing of statements pursuant to section 9-608 shall not be required if the candidate files a certification with the proper authority required by section 9-603, not later than ten days after becoming a candidate, and any of the following conditions exist for the campaign: (1) The candidate is one of a slate of candidates whose campaigns are funded solely by a party committee or a political committee formed for a single election or primary and expenditures made on behalf of the candidate's campaign are reported by the committee sponsoring the candidate's candidacy; (2) the candidate finances the candidate's campaign entirely from personal funds and does not solicit or receive contributions, provided if said candidate personally makes an expenditure or expenditures in excess of one thousand dollars to, or for the benefit of, said candidate's campaign for nomination at a primary or election to an office or position, said candidate shall file statements according to the same schedule and in the same manner as is required of a campaign treasurer of a candidate committee under section 9-608; (3) the candidate does not receive or expend funds in excess of one thousand dollars; or (4) the candidate does not receive or expend any funds, including personal funds, for the candidate's campaign. If the candidate no longer qualifies for the exemption under any of these conditions, the candidate shall comply with the provisions of subsection (a) of this section, not later than three business days thereafter and shall provide the candidate's designated campaign treasurer with all information required for completion of the treasurer's statements and filings as required by section 9-608. If the candidate no longer qualifies for the exemption due to the condition stated in the candidate's certification but so qualifies due to a different condition specified in this subsection, the candidate shall file an amended certification with the proper authority and provide the new condition for the candidate's qualification not later than three business days following the change in circumstances of the financing of the candidate's campaign. The filing of a certification under this subsection shall not relieve the candidate from compliance with the provisions of this chapter

5. Respondent Budney failed to file either a candidate committee or exemption from forming a candidate committee within ten days of becoming a candidate by attaining ballot status, as defined in Conn. Gen. Stat. § 9-601a(11). Instead, he filed a Registration by Candidate (SEEC Form 1) and SEEC Form 1B (Certification of Exemption from Forming a Candidate Committee) on December 3, 2007, approximately 3 ½ months after qualifying as a petitioning candidate, in violation of Conn. Gen. Stat. § 9-604.

6. Respondent should have been advised by the Lebanon Town Clerk of his failure to file, pursuant to Conn. Gen. Stat. § 9-623, and assessed a mandatory late fee, which may have alerted him earlier of the necessity of filing his candidate registration.
7. Respondent made six expenditures for advertising from his own personal funds totaling \$3,398.10, for the benefit of Susan Brett Davis' campaign for election to the PZC between September 27, 2007 and November 9, 2007. Since Susan Brett Davis is Respondent's live-in partner, the Commission concludes that such expenditures were coordinated, within the meaning of Conn. Gen. Stat. § 9-601a(19).
8. The expenditures that Respondent made in coordination with Susan Brett Davis constituted in kind contributions to the LRTC, which was designated by Ms. Davis as the funding source for her campaign.
9. Connecticut General Statutes §9-612 provides, in pertinent part:

(a) No individual shall make a contribution or contributions in any one calendar year in excess of five thousand dollars to the state central committee of any party, or for the benefit of such committee pursuant to its authorization or request; or one thousand dollars to a town committee of any political party, or for the benefit of such committee pursuant to its authorization or request; or one thousand dollars to a legislative caucus committee or legislative leadership committee, or seven hundred fifty dollars to any other political committee other than (1) a political committee formed solely to aid or promote the success or defeat of a referendum question, (2) an exploratory committee, (3) a political committee established by an organization, or for the benefit of such committee pursuant to its authorization or request, or (4) a political committee formed by a slate of candidates in a primary for the office of justice of the peace of the same town. ... [Emphasis added.]

10. It is found that Respondent's expenditures constitute in kind contributions to the LRTC, and exceeded his \$1,000 annual contribution limit to the LRTC, in violation of Conn. Gen. Stat. § 9-612(a).
11. General Statutes § 9-610 provides, in pertinent part:

(c) A candidate may make any expenditure permitted by section 9-607 to aid or promote the success of his campaign for nomination or election from his personal funds, or the funds of his immediate family, which for the purposes of this chapter shall consist of the candidate's spouse and issue. Any such expenditure shall not be deemed a contribution to any committee.

12. Although Ms. Davis could have paid for such advertisements without them counting as a contribution to the LRTC (and she would have had to report the same to the LRTC treasurer for reporting under "Candidate's Payment of Expenditures," pursuant to Conn. Gen. Stat. § 9-607(k)), Respondent Budney's payment of the advertisements does not fall within the

exemption in Conn. Gen. Stat. § 9-610(c) because he is not her "immediate family" within the meaning of the statute.

13. Respondent expended his own personal funds in the purchase of seven advertisements and mailers containing inaccurate, inconsistent and incomplete attributions. He also purchased jar openers for her campaign, which do not require an attribution. Some of the ads contained the attribution "Paid for by the Lebanon Republican Town Committee," which was not accurate.

14. Connecticut General Statutes §9-621 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. No candidate or candidate committee or exploratory committee established by a candidate shall make or incur any expenditure for a mailing to promote the success of said candidate's campaign for nomination at a primary or election or the defeat of another candidate's campaign for nomination at a primary or election, unless the mailing contains a photograph of the candidate conducting the mailing and said candidate's name in a font that is not less than the size of the font used for the narrative of the mailing.

*... (d) The provisions of subsections (a), (b) and (c) of this section do not apply to (1) any editorial, news story, or commentary published in any newspaper, magazine or journal on its own behalf and upon its own responsibility and for which it does not charge or receive any compensation whatsoever, (2) any banner, (3) **political paraphernalia** including pins, buttons, badges, emblems, hats, bumper stickers or other similar materials, or (4) signs with a surface area of not more than thirty-two square feet. [Emphasis added.]*

15. Since Respondent made the advertising expenditures in coordination with a candidate, such advertisements should have included the attribution "Paid for and approved by Wayne Budney, 97 Geer Road, Lebanon, Connecticut."

16. It is concluded that by incorporating the LRTC attribution on each advertisement when they had not, in fact, paid for the communications, and not including the correct attribution, each advertisement containing said attribution constituted a violation of Conn. Gen. Stat. § 9-621(a).
17. A photograph of Ms. Davis was not required on the mailers because they were not paid for by a candidate, candidate committee or exploratory committee.
18. Respondent maintains that he did not knowingly or intentionally violate state election law. He is a first time candidate and first time political campaigner acting on behalf of his domestic partner, Susan Brett Davis.
19. 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.
20. 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.
21. 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 agreement or Order entered into pursuant to this agreement.
22. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

File # 2007-389

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APR 02 2008

ORDER

ENFORCEMENT
COMMISSION

IT IS HEREBY ORDERED that the Respondent shall remit a civil penalty of seven hundred fifty dollars (\$750) to the State Elections Enforcement Commission on or before April 3, 2008, and henceforth strictly comply with Connecticut General Statutes §§ 9-604, 9-612(a), and 9-621(a).

The Respondent:

Wayne M. Budney
Wayne M. Budney
97 Geer Road
Lebanon, Connecticut

For the State of Connecticut:

BY: Joan M. Andrews
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: 3-30-08

Dated: 4/2/08

Adopted this 9th day of April of 2008 at Hartford, Connecticut

Stephen F. Cashman
Stephen F. Cashman, Chairman
By Order of the Commission