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ELECTIONS ENFORCEMENT COMMISSION
FILE NO. 2007-415

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Santa Mendoza, New London

File No. 2007-415

**AGREEMENT CONTAINING CONSENT ORDER AND
PAYMENT OF A CIVIL PENALTY FOR VIOLATION OF
CONNECTICUT GENERAL STATUTES §§ 9-607, 9-613 & 9-622(10)**

This Agreement, by and between Gerald Grabarek ("Respondent"), of the Town of Preston, County of New London, State of Connecticut 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. The Respondent was the Democratic candidate for First Selectman in the November 2007 municipal election in the Town of Preston, and formed a candidate committee, "Grabarek 2007" to finance his campaign.¹
2. Complainant alleged that "Grabarek 2007" published advertisements in the September 2007 and October 2007 issues of the Preston Pipeline, which promoted the candidacies of eleven candidates in Preston in addition to Mr. Grabarek.
3. Connecticut General Statutes § 9-607(g), provides in pertinent part:

(g) Permissible expenditures. (1) As used in this subsection, (A) "the lawful purposes of his committee" means: (i) *For a candidate committee* or exploratory committee, the *promoting of the nomination or election of the candidate who established the committee, . . .*
[Emphasis added.]
4. Connecticut General Statutes § 9-616, provides in pertinent part,

(a) A candidate committee *shall not make contributions to*, or for the benefit of, (1) a party committee, (2) a political committee, (3) a committee of a candidate for federal or out-of-state office, (4) a national committee, or (5) *another candidate committee . . .*
[Emphasis added.]
5. Connecticut General Statutes § 9-613, provides in pertinent part

a) No business entity shall make any contributions or expenditures to, or for the benefit of, any candidate's campaign for election to any public office or

¹ The original Respondent in this matter was at all times relevant to this Complaint, Lynwood Crary, Treasurer, for "Grabarek 2007." The herein identified Gerald Grabarek agrees to assume Mr. Crary's liability and obligations as Respondent in the instant matter.

position subject to this chapter or for nomination at a primary for any such office or position, or to promote the defeat of any candidate for any such office or position. . . . [Emphasis added.]

6. Connecticut General Statutes § 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; . . . [Emphasis added.]

7. The September 2007 edition of the Preston Pipeline, a circular paid for by advertising and distributed to the residents of the town of Preston, is an 8.5" x 11" book-style publication printed on plain white tabloid-sized 11" x 17" paper, folded over and bound with staples. The publication is 29 pages long. Page 3 contains a full-page political advertisement promoting the candidacies of Respondent 1st Selectman candidate Gerald "Jerry" Grabarek and Selectman candidate Timothy Bowles. The candidates are given an equal amount of space in the advertisement. The bottom of the advertisement reads: "paid for by Grabarek 2007/Lynwood Crary, Treasurer,/Old Jewett City, Preston, CT."
8. Page 7 of the September 2007 Preston Pipeline contains a full-page political advertisement promoting the candidacies of Respondent and the Board of Education candidates Deborah Burke-Grabarek, James Ewing, and Jessica Pappas. The advertisement supports and promotes all three candidates equally and includes a statement of issues important to the candidates as well as a photograph of the three candidates together. The bottom of the advertisement reads: "paid for by Grabarek 2007/Lynwood Crary, Treasurer,/Old Jewett City, Preston, CT."
9. The October 2007 Preston Pipeline contains advertisements paid for by Grabarek 2007 on pages 2, 6, 7, 12 and 13. On Page 2 there is a 1/3-page advertisement for Sandra Ewing, candidate for the Planning & Zoning Commission. The advertisement features the attribution "Paid for by Grabarek 2007, Lynwood Crary, Treasurer."
10. On Page 6 there is a full-page advertisement featuring the names and offices sought of Gerald Grabarek and Tim Bowles, as well as the names, office sought and a statements by Robert Chapin, Tom Fenton, Richard Chalifoux and Sandra Ewing, all candidates for the Planning & Zoning Commission. The advertisement features the attribution "Paid for by Grabarek 2007, Lynwood Crary, Treasurer."
11. On Page 7 there is a full-page advertisement again featuring the names and offices sought of Gerald Grabarek and Tim Bowles, as well as the names, office sought and a statements by: Deborah Burke-Grabarek, Jim Ewing and Jessica Pappas, all candidates for the Board of Education; Sandra Allyn-Gauthier and Nathan Wilson, candidates for the Board of Finance; and William Maruzo, candidate for the Zoning Board of Appeal. The advertisement features the attribution "Paid for by Grabarek 2007, Lynwood Crary, Treasurer."

12. On Page 12, there is a full-page advertisement featuring only Mr. Grabarek with the attribution "Paid for by Grabarek 2007, Lynwood Crary, Treasurer." On Page 13, there is a full-page advertisement featuring only Mr. Bowles with the attribution "Paid for by Grabarek 2007, Lynwood Crary, Treasurer."
13. The abovementioned advertisements inured to the benefit of not only the Respondent, but also to the benefit of those other candidates featured therein, and were in fact paid for by "Grabarek 2007."
14. By authorizing expenditures from his candidate committee and causing his campaign committee to make expenditures in support of other candidates, Respondent violated Connecticut General Statutes § 9-607. Promoting other candidates is not a permissible expenditure of a candidate committee.
15. The other candidates receiving the benefit of the advertisements reasonably believed that the Democratic Town Committee, of which Respondent is Chair, had paid for the advertisements, which would have been a permissible source. Each other candidate submitted an Exemption from Forming a Candidate Committee (SEEC Form 1B) with the Preston Town Clerk indicating that they were exempt from forming a candidate committee because each candidate did not expect to spend more than \$1,000 on his or her campaign. Accordingly, the other candidates were not liable under § 9-622 for receiving a contribution that was otherwise prohibited and, since each was exempt from any type of disclosure reporting, each was also therefore not obligated to report the source of the advertisement funding.
16. Additionally, and pertinent to the instant Complaints, the Itemized Campaign Finance Disclosure Report (SEEC Form 20) for "Grabarek 2007" filed in compliance with the requirement to disclose seven days prior to the November 7 Election Day, lists an expenditure of \$1,000, incurred on "10/07" but not paid to the Preston Pipeline for "Ads." The January 10, 2008 Report indicates that the \$1,000 payment was made on or about November 27, 2007. During the course of the investigation, Respondent and Deputy Treasurer (and wife of Mr. Grabarek) Deborah Burke-Grabarek forwarded the receipts for the advertisements, which indicate that the ads cost \$800. Mr. Grabarek intentionally overpaid for the circular as he wanted to give the Preston Pipeline a donation. However, this donation to a local circular did not have any connection to the (lawful) promotion of the candidate's success at election and therefore violated Connecticut General Statutes § 9-607. After this overpayment was brought to the Respondent's attention by the Commission and after the filing of the instant Complaint a \$200 refund from the Pipeline was requested by the Respondent and received back to the candidate committee.
17. Additionally, and pertinent to the instant Complaints, in both the October 10, 2007 and October 30, 2007 Campaign Finance Disclosure Reports (SEEC Form 20) there are impermissible contributions received from business entities, in violation of Connecticut General Statutes §§ 9-613 & 9-622(10). In Section I. E. of the October 10 Report, Morazu Heating & Plumbing is listed as giving a \$70 contribution. In Section I. E. of the October 30 Report, "ACE Heating" is listed as giving a \$250 contribution. In the Termination Report for "Grabarek 2007," filed at the end of

January, 2008, checks are remitted from the committee back to those entities in those amounts.

18. 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.
19. 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.
20. 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.
21. 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 pay a civil penalty of two hundred fifty dollars (\$250.00) to the Commission on or before May 7, 2008 and that the Respondent shall henceforth strictly comply with the requirements of Connecticut General Statutes §§ 9-607, 9-613 & 9-622(10).

The Respondent:

Gerald Grabarek
Gerald Grabarek
17 Hewitt Rd.
Preston, Connecticut

For the State of Connecticut:

BY: Joan 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: 5/20/08

Dated: 5/22/08

Adopted this 29th day of May of 2008 at Hartford, Connecticut

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