

STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by the SEEC Elections Officer

RESPONDENT:  
William Jenkins  
63 Ridge Road  
Chaplin, CT 06235

**Final Decision**  
File No. 2008-044MC  
Report of Hearing Officer

November 19, 2008

**Final Decision**

The State Elections Enforcement Commission designated Albert Lenge to serve as Hearing Officer in this matter at a meeting held by the Commission on July 10, 2008. This matter was heard as a contested case on August 6, 2008 pursuant to Chapter 54 of the Connecticut General Statutes, §9-7b of the Connecticut General Statutes and §9-7b-35 of the Regulations of Connecticut State Agencies. Attorney Joan Andrews appeared on behalf of the State of Connecticut and the Respondent, William Jenkins, appeared *pro se*. Both sides presented evidence consisting of testimony and documentary evidence.

After consideration of the entire record, the following facts are found and conclusions of law are made:

1. The Commission's Elections Officer, Nancy Staniewicz, referred this matter to Attorney Joan Andrews, Director of Legal Affairs & Enforcement, on February 26, 2008. ***State's Exhibit 10***. Although the memo is dated February 26, 2007, Ms. Staniewicz testified that it was sent on February 26, 2008 and it is date stamped by the Commission on February 26, 2008. This referral alleges that Mr. William Jenkins was listed as an officer of more than one political committee and that he failed to respond to Ms. Staniewicz's January 15, 2008 request, sent by certified mail, to remove himself from all but one committee by the February 15, 2008 deadline set forth in Ms. Staniewicz's request. The referral to Attorney Andrews asks that the matter "be investigated so that compliance with the provisions of Section 9-605 may be obtained."
2. The Commission voted on March 12, 2008 to initiate an investigation into "the seven individuals who are listed on the February 26, 2008 memo from Nancy Staniewicz as officers of more than one political committee in possible violation of C.G.S. Sec. 9-605(e)." Administrative Notice was taken at hearing of the ***Minutes of the State Election Enforcement Commission's Regular Meeting of March 12, 2008***. The Respondent was one of seven individuals listed on the February 26, 2008 memo marked as ***State's Exhibit 10***.
3. Nancy Staniewicz has served as an Elections Officer with the Campaign Finance Disclosure Unit of the Commission since December 2006 and is responsible for the Commission's filing repository function. She was the Elections Officer and custodian of campaign finance records at the office of the Secretary of the State with respect to all of the committee registration statements relevant to this hearing. Both her position as Elections Officer and the registration records filed prior to January 1, 2007 were transferred to the Commission on or about January 1, 2007.

4. The January 15, 2008 certified letter referred to in par. 1 above was not produced by the State at hearing. However, a January 30, 2008 letter was admitted into evidence as *State's Exhibit 3*. This January 30, 2008 letter was sent by the Commission's Campaign Finance Disclosure Unit to the Respondent by certified mail advising him that he was currently serving as an officer of three political committees and that he must resign his officer role in all but one of the committees, under the provisions of Section 9-605, by February 15, 2008. The letter warned that "failure to resign . . . may result in a referral to the Legal & Enforcement Unit of the State Elections Enforcement Commission." *State's Exhibit 3*. This letter notified the Respondent that at the time of the letter he was serving the following committees and officer roles:

35 Is Alive – Treasurer,  
Windham County PAC – Deputy Treasurer  
Tolland County PAC – Treasurer.

The Respondent denies receiving the January 30, 2008 letter, and the state does not dispute that the Respondent did not receive this letter, which was returned to the Commission by the United States Postal Service. See *State's Exhibit 3*.

5. The Respondent admits receiving a prior December 22, 2006 memo from the Executive Director and General Counsel of the Commission. This letter advised chairpersons and treasurers of committees that "(n)o individual can **establish or control** more than one PAC." (page 3) It further advised that "Section 9-333g(e)(1) [now, Section 9-605(e)(1)], General Statutes, requires any individual who, on December 31, 2006, 'has established or controls more than one political committee,' to disavow control of all but one such committee by no later than January 30, 2007 by notifying the SEEC in writing" (page 3). It also advised (1) that "a committee is deemed established by an individual where . . . the individual appears as an officer on the committee's statement of organization" and (2) that the "Commission will consider in determining whether an individual 'controls' a political committee whether the individual . . . (s)erves as a committee chairperson, treasurer, deputy treasurer or other officer." (pages 5-6) This December 22, 2006 letter was admitted into evidence as *State's Exhibit 1*. Section 9-333g(e)(1) was recodified to 9-605(e)(1) after January 1, 2007.
6. The Respondent was also advised by Representative Fleischmann at a February 25, 2008 hearing of the Government Administration and Elections Committee that "there may be limits on how many different committees you can be treasurer for . . . (s)o the bad news is that you may be a little out of compliance with where the law has moved." *State's Exhibit 9*, page 578. The Respondent replied to Representative Fleischmann as follows: "I'm treasurer of political committees organized by two or more individuals, treasurer of two of those and deputy treasurer of another one . . . (a)nd last I knew, I'm not in violation of the law". *State's Exhibit 9*, page 579.
7. The Respondent also received a March 24, 2008 letter from Dianna Kulmacz, the Commission's Director of Campaign Disclosure and Audit, identifying him as an officer of three political committees as follows:

35 Is Alive –Treasurer  
Windham County PAC-Deputy Treasurer  
Tolland County PAC-Treasurer.

This letter also advised the Respondent that “(u)nder the provisions of Section 9-605, you must resign your officer role in all but one of the committees above.” The March 24, 2008 letter was admitted into evidence as *State’s Exhibit 13*.

8. An exhibit marked as *State’s Exhibit 14* is a memorandum written by Dianna Kulmacz, Director of Campaign Disclosure and Audit, commemorating a March 31, 2008 conversation that she had with the Respondent advising him that he had to resign from two of the three political committees that he presently served on as treasurer and deputy treasurer. Ms. Kulmacz argued that support for this requirement was found in the Commission’s Declaratory Ruling 2006-2, which was available to the Respondent on the Commission’s website, and in the December 22, 2006 memo from the Executive Director and General Counsel of the Commission (See *State’s Exhibit 1*).
9. A letter dated April 14, 2008 from John Neumon, Lead Legal Investigator of the Commission, was sent to the Respondent giving him a “thirty day grace period...to come into compliance . . . by May 14, 2008” by disavowing “all committees for which you are a treasurer or chairperson except one . . . ” (page 2) This letter was entered into evidence without objection and made *State’s Exhibit 15*. This letter further states that “(a)fter the expiration of this thirty day period, the Commission will not be willing to resolve this matter without the imposition of at least a \$100 civil penalty . . . ” (page 2) It further warns that the failure to disavow all but one committee by May 14, 2008 may subject the Respondent to civil penalties of up to \$2,000 per violation pursuant to Conn. Gen. Stat. Sec. 9-7b(a)(2) and an order of removal from serving as a treasurer or deputy treasurer after a hearing pursuant to Conn. Gen. Stat. Sec. 9-7b(a)(3)(B).
10. Administrative Notice is taken of the Commission’s *July 10, 2008 Notice of Hearing and Order to Show Cause* in this matter, which identifies the issue of whether the Respondent is “in violation of Conn. Gen. Stat. Sec. 9-605(e)(1), which provides that: ‘No individual shall establish or control more than one political committee.’ Currently, you are registered as an officer of the following political committees:  
  
35 Is Alive, Treasurer  
Windham County PAC, Deputy Treasurer  
Tolland County PAC, Treasurer[.]”
11. The Respondent admits that the Respondent **was** the designated treasurer of the **Tolland County political committee** when it filed its original registration statement with the Secretary of the State’s office on December 18, 2000. The Respondent does not dispute that he participated in the establishment of the **Tolland County political committee** and that he continues to serve that political committee of two or more persons as its treasurer. See *State’s Exhibit 6*.

12. The parties do not dispute that the Respondent **was not** the original treasurer of the **35 is Alive political committee** at the time of its original registration statement. He became its treasurer on October 2, 2006 when the committee amended its registration statement and made the Respondent the political committee's treasurer. See *State's Exhibit 5*. The Respondent admits that he continues to serve as **35 is Alive's** treasurer.
13. The Respondent was the **Windham County political committee's** deputy treasurer at the time that its original registration statement was filed on October 30, 2003. *State's Exhibit 7*. The Respondent admits that he continues to serve as Windham County political committee's deputy treasurer.
14. The Respondent disagrees with the interpretation of the law articulated to the Respondent by the Commission's staff, as set forth in *State's Exhibit 1, State's Exhibit 13, State's Exhibit 14 and State's Exhibit 15*, in support of staff's seeking his resignation from any two of the three committees on which he presently serves as treasurer or deputy treasurer. The Respondent contends that he is not in violation of Conn. Gen. Stat. Sec. 9-605(e)(1) and seeks an authoritative determination from the Commission itself regarding the application of the statute to these facts and circumstances.
15. The Respondent first contends that the Commission's Declaratory Ruling 2006-2, which was cited as authority by Commission staff in *State's Exhibit 1* and *State's Exhibit 14*, is inapposite to this case because Declaratory Ruling 2006-2 interpreted the words "establish" or "control" in the context of the solicitation ban on political committees established or controlled by communicator lobbyists under what has now been codified as Conn. Gen. Stat. Sec. 9-610(i). The Respondent argues that the scope to be given to those same terms "establish" or "control" requires a separate interpretation by the Commission of Conn. Gen. Stat. Sec. 9-605(e)(1) [prohibiting an individual from establishing or controlling more than one political committee]. The Commission's Declaratory Ruling 2006-2 was marked as *Joint Exhibit 4*.
16. It is true that Declaratory Ruling 2006-2 has to do with the Commission's interpretation of the terms "establish" or "control" in the context of the solicitation ban on political committees established or controlled by communicator lobbyists under Conn. Gen. Stat. Sec. 9-610(i). Declaratory Opinion 2006-2 did not address the interpretation that the Commission gives to the use of those same terms in the context of Conn. Gen. Stat. Sec. 9-605(e)(1) [prohibiting an individual from establishing or controlling more than one political committee].
17. The Respondent argues that Conn. Gen. Stat. Sec. 9-605(e)(1) states that "(t)he indicia of establishment or control of a political committee by an individual includes the individual serving as chairperson or campaign treasurer of the committee . . ." and that, therefore, this indicia specifically does not apply to his serving as the deputy treasurer of the **Windham County political committee**.
18. The Respondent further argues that this "indicia" of establishment or control with respect to his serving as treasurer of the **35 is Alive political committee** only creates a presumption that he has overcome by proffering the Rules and Bylaws of the committee,

which were admitted into evidence as **Respondent's Exhibit A**, which state in pertinent part:

The treasurer shall make expenditures as authorized by a budget that has been approved by a majority vote of the committee. The treasurer shall not make any additional expenditures beyond the approved budget without a vote of the committee at a meeting . . . . The . . . treasurer may be removed for cause by a majority vote of the voting membership of the committee.

He thus argues that it is the voting membership of the **35 is Alive committee** and not the treasurer that controls the committee.

19. Conn. Gen. Stat. Sec. 607(a) states: "No financial obligation shall be incurred by a committee unless authorized by the campaign treasurer . . ." Conn. Gen. Stat. Sec. 9-607(b) further states: "No . . . committee shall be liable for any debt . . . unless such debt was incurred pursuant to an authorization issued under subsection (a) of this section." Therefore, the membership of the **35 is Alive** committee becomes statutorily liable for any debt authorized by the Respondent in his capacity as treasurer.
20. It is therefore concluded that the Respondent is a controlling member of the **35 is Alive** committee by virtue of his serving the committee as treasurer.
21. Conn. Gen. Stat. Sec. 9-602(c) states: "In the event of the death of the campaign treasurer or after a statement has been filed concerning the campaign treasurer's incapacity, resignation or replacement, if a deputy campaign treasurer has been designated, the deputy campaign treasurer shall be responsible for all duties required of the campaign treasurer under this chapter until the candidate or chairman of the committee files with the proper authority a designation of a successor campaign treasurer."
22. The Respondent filed financial disclosure statements for the **Windham County political committee** seven times: January 10, 2007, April 10, 2007, July 10, 2007, October 10, 2007, January 10, 2008, April 10, 2008 and July 10, 2008. **State's Exhibit 8**. By operation of Conn. Gen. Stat. Sec. 9-602(c), a deputy campaign treasurer serves as an inchoate treasurer by virtue of the fact that the authority of the deputy treasurer to act as treasurer may instantly spring into life under certain facts that may occur at any time.
23. The interpretation of the term "establish" to Conn. Gen. Stat. Sec. 9-605(e)(1) by the Executive Director and General Counsel in **State's Exhibit 1** was reasonable. "A committee is deemed established by an individual where he or she had a significant role in the committee's formation, or the individual appears as an officer on the committee's statement of organization". **State's Exhibit 1, p. 5**. In this regard, the Respondent was the **Windham County political committee's** designated deputy treasurer at the time the committee was first established on October 30, 2003.
24. The interpretation of the term "control" to Conn. Gen. Stat. Sec. 9-605(c)(1) by the Executive Director and General Counsel in **State's Exhibit 1** was also reasonable. "The Commission will consider in determining whether an individual 'controls' a political committee whether the individual . . . (3) (s)erves as a committee chairperson, treasurer,

deputy treasurer or other officer.” **State’s Exhibit 1, pp. 5-6.** In this regard, the Respondent has served as deputy treasurer of the Windham County political committee since October 30, 2003 and has filed seven financial disclosure statements on behalf of the committee since 2007 as set forth in par. 22 of this Report.

25. It is therefore concluded that the Respondent is an individual who both established and controlled the **Windham County political committee** in his capacity as its designated deputy treasurer.
26. It is further concluded that the Respondent has violated the requirements of Conn. Gen. Stat. Sec. 9-605(e)(1) by not disavowing his role as treasurer or deputy treasurer on two of the three committees [**35 is Alive, Windham PAC, and Tolland County PAC**] upon which he has continued to serve since January 31, 2007. This violation continues and is ongoing since the May 14, 2008 grace period to disavow that was extended by Commission staff to the Respondent to comply with this statutory requirement, as set forth in **State’s Exhibit 15.**
27. Attorney Joan Andrews seeks a \$1,000 civil penalty against the Respondent pursuant to Conn. Gen. Stat. Sec. 9-7b (a)(2) of the Commission’s enabling statute and further seeks an order of removal of the Respondent from serving as a campaign treasurer or deputy treasurer of any two of the three subject committees pursuant to Conn. Gen. Stat. Sec. 9-7b (a)(3)(B) of the Commission’s enabling statute.
28. The Respondent stated at hearing that in the event that Commission enters an order of removal issues against him as to two of the three committees upon which he presently serves, that he would like to remain as treasurer of the Tolland County political committee.
29. This is a case of first impression for the Commission under Conn. Gen. Stat. Sec. 9-605(e)(1) with respect to the scope of the prohibition that “no individual shall establish or control more than one political committee.”
30. It is found that the Respondent acted in good faith in the face of a bona fide dispute over the application of the law to him under the facts of this case. Accordingly, the Commission declines to impose a civil penalty in this matter.
31. The Commission has the authority pursuant to Conn. Gen. Stat. Sec. 9-7b(a)(3)(F) “to issue a cease and desist order for violation of any general statute or regulation under the commission’s jurisdiction and to take reasonable actions necessary to compel compliance with such statute or regulation.”

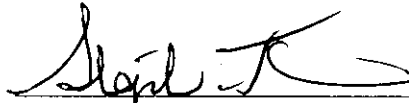
The following order is adopted on the basis of these findings and conclusions.

**ORDER**

IT IS HEREBY ORDERED that the Respondent is removed from serving as deputy treasurer of the **Windham County PAC** and as treasurer of the **35 is Alive PAC**, such positions shall be considered by the Commission to be vacancies as of the effective date of the Final Decision in this matter;

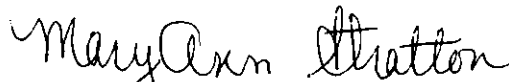
IT IS FURTHER ORDERED that the Respondent cease and desist in the future from ever serving as a chairperson, treasurer, deputy treasurer or other officer of more than one political committee, except as otherwise permitted by Conn. Gen. Stat. Sec. 9-605(e)(1) with respect to serving on an exploratory committee and except as permitted by Conn. Gen. Stat. Sec. 9-605(e)(2) and (3) with respect to legislative caucus and legislative leadership committees.

Adopted this 19<sup>th</sup> day of November \_\_\_\_, 2008 at Hartford, Connecticut by vote of the Commission.



Stephen F. Cashman, Chairman  
By order of the Commission

I certify the preceding notice and final decision were sent to Respondent William Jenkins, 63 Ridge Road, Chaplin, Connecticut 06235, via first-class mail on November 25<sup>th</sup>, 2008 with delivery confirmation tracking and certified mail, return receipt requested.



MaryAnn Stratton  
Acting Clerk of the Commission