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STATE OF CONNECTICUT STATE ELECTIONS
STATE ELECTIONS ENFORCEMENT COMMISSION
NOV 17 2009

ENFORCEMENT
COMMISSION 007-371

In the Matter of a Complaint by
John Lappie, North Branford

**AGREEMENT CONTAINING CONSENT ORDER AND PAYMENT OF A CIVIL
PENALTY FOR VIOLATION OF CONNECTICUT GENERAL STATUTES §§ 9-333h,
9-333i(f), 9-333j(c), 9-333o, & 9-333x(10) (Rev. 2005)**

This Agreement, by and between Mary K. Hart of the Town of North Branford, County of New Haven, 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) The Respondent was the treasurer for the North Branford Democratic Town Committee (hereinafter "NBDTC") from October 28, 2003 to April 10, 2006.
- 2) Complainant challenged the accuracy and completeness of several portions of the Statement of Receipts and Expenditures (ED-45 form) by the NBDTC filed seven days preceding the November 8, 2005 municipal election. Specifically, Complainant alleged that the NBDTC:
 - (a) failed to list the date, time and place of a fundraiser where ad purchases in program booklets were used;
 - (b) misrepresented individual contributions over \$50 as ad book purchases; and
 - (c) failed to report \$6,850 in ad book purchases;
- 3) The investigation also revealed that Respondent may have misallocated contributions from joint checking accounts but failed to maintain internal records of such contribution checks so that the proper allocation could be determined.
- 4) Connecticut General Statutes § 9-333b (Rev. 2005), provides in pertinent part:
 - (b) As used in this, **"contribution" does not mean: ... (10) The purchase of advertising space which clearly identifies the purchaser, in a program for a fund-raising affair, provided the cumulative purchase of such space does not exceed two hundred fifty dollars from any single candidate or the candidate's committee with respect to any single election campaign or two hundred fifty dollars from any single party committee or other political committee in any calendar year if the purchaser is a business entity or fifty dollars for purchases by any other person; ...**
- 5) Connecticut General Statutes §9-333h (Rev. 2005), 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.* ...

(b) *A contribution in the form of a check drawn on a joint bank account shall, for the purpose of allocation, be deemed to be a contribution made by the individual who signed the check. If a check is signed by more than one individual, the total amount of the check shall be divided equally among the cosigners for the purpose of allocation.* If a committee receives an anonymous contribution of more than fifteen dollars the campaign treasurer shall immediately remit the contribution to the State Treasurer. The State Treasurer shall deposit the contribution in the General Fund. [Emphasis added.]

6) Connecticut General Statutes §9-333i (Rev. 2005), 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 (e) 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 (e) 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. [Emphasis added.]

7) Connecticut General Statutes §9-333j (Rev. 2005), 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; (C) an itemized accounting of each expenditure, if any, including the full name and complete address of each payee, including secondary payees whenever the primary or principal payee is known to include charges which the primary payee has already paid or will pay directly to another person, vendor or entity, the amount and the purpose of the expenditure, the candidate supported or opposed by the expenditure, whether the expenditure is made independently of the candidate supported or is an in-kind contribution to the candidate, and a statement of the balance on hand or deficit, as the case may be; (D) an itemized accounting of each expense incurred but not paid, provided if the expense is incurred by use of a credit card, the accounting shall include secondary payees, and the amount owed to each such payee; (E) the name and address of any person who is the guarantor of a loan to, or the cosigner of a note with, the candidate on whose behalf the committee was formed, or the campaign treasurer in the case of a party committee or a political committee or who has advanced a security deposit to a telephone company, as defined in section

16-1, for telecommunications service for a committee; (F) **for each business entity or person purchasing advertising space in a program for a fund-raising affair, the name and address of the business entity or the name and address of the person, and the amount and aggregate amounts of such purchases;** (G) for each individual who contributes in excess of one hundred dollars but not more than one thousand dollars, in the aggregate, to the extent known, the principal occupation of such individual and the name of the individual's employer, if any; (H) for each individual who contributes in excess of one thousand dollars in the aggregate, the principal occupation of such individual, the name of the individual's employer, if any, and a statement indicating whether the individual or a business with which he is associated has a contract with the state which is valued at more than five thousand dollars; (I) for each itemized contribution made by a lobbyist, the spouse of a lobbyist or any dependent child of a lobbyist who resides in the lobbyist's household, a statement to that effect; and (J) for each individual who contributes in excess of four hundred dollars in the aggregate to or for the benefit of any candidate's campaign for nomination at a primary or election to the office of chief executive officer of a town, city or borough, a statement indicating whether the individual or a business with which he is associated has a contract with said municipality that is valued at more than five thousand dollars. **Each campaign treasurer shall include in such statement (i) an itemized accounting of the receipts and expenditures relative to any testimonial affair held under the provisions of section 9-609 or any other fund-raising affair, which is referred to in subsection (b) of section 9-601a, and (ii) the date, location and a description of the affair. ... (Emphasis added.)**

- 8) In the November 1, 2005 Statement of Receipts and Expenditures (ED-45 Form), which covered the period from October 1, 2005 through October 26, 2005, the Respondent reported "other monetary receipts (Sections D-K)" (of the Summary Page) totaling \$8,400.00 for a fundraising affair. However, the Respondent only disclosed and itemized \$1,550.00 of those receipts—ten (10) in all in *Section K, Fundraising affairs Description* (marked as Page #4)—which consisted of ad book purchases from \$50 to \$250.00. She thereby failed to report \$6,850.00 in receipts.
- 9) Respondent maintained that she filed a 12 page report with the Office of the Secretary of the State (SOTS) on or about November 10, 2005 and that the entries on page 12 (Extra Section K Page(s) of the Statement of Receipts and Expenditures (ED-45 form) summed up to \$6,850.00, however, the filed statement with the SOTS contained 11 pages and the alleged page 12 (Extra Section K Page(s)) was not included with that statement.
- 10) Early in the investigation, the Respondent produced a copy of page 12 (Extra Section K Page(s) of the Statement of Receipts and Expenditures (ED-45 form) to Commission staff but did not formally amend the statement. The entries captured on this page totaled \$6,850.00. When this figure (\$6,850.00) was added to the entries made to *Section K, Fundraising affairs Description* (marked as Page #4), \$1,550.00, the full amount matched the reported total in "other monetary receipts (Sections D-K)" of the Summary Page, \$8,400.00.
- 11) It is found that Respondent, by failing to report \$6,850 by virtue of inadvertently omitting a page from her report, violated Conn. Gen. Stat. §9-333j(c) (Rev. 2005.)
- 12) On September 16, 2009, the NBDTC current treasurer, Gabriel Varca, partially amended this filing to include the omitted page 12 (Extra Section K Page(s) of the Statement of Receipts and Expenditures (ED-45 form) as well as the date, location and a description of a fundraiser held October 17, 2005 described below. The current treasurer also made his best efforts to

properly reflect proper allocations between joint contributors, in an effort to assist the Respondent.

13) Connecticut General Statutes §9-613 (formerly 9-333o), 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 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. No business entity shall make any other contributions or expenditures to promote the success or defeat of any political party, except as provided in subsection (b) of this section. No business entity shall establish more than one political committee. A political committee shall be deemed to have been established by a business entity if the initial disbursement or contribution to the committee is made under subsection (b) of this section or by an officer, director, owner, limited or general partner or holder of stock constituting five per cent or more of the total outstanding stock of any class of the business entity. [Emphasis added.]

14) Connecticut General Statutes §9-622 (formerly 9-333x), makes it an illegal practice for:

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

15) A further review of the Statement of Receipts and Expenditures (ED-45 Form), pages 4 and 12 referred to above, revealed that the Respondent accepted and deposited thirty-one (31) ad book purchases of which nine (9) were over \$50 from individuals totaling \$2,150, seven (7) were reported from couples totaling \$2,600 where Respondent may have failed to allocate contributions from joint checking accounts, and thirteen (13) were from business entities of which one (1) was in excess of the \$250 limit (\$500.)

16) Ad book purchases over \$50 from individuals do not fit within the exemption from contribution in §9-333b(b)(10), and are contribution that should be reported in Section B. The individuals making such purchases remained within contribution limits.

17) In the October 26, 2005 Statement of Receipts and Expenditures (ED-45 Form), which covered the period from October 1, 2005 through October 26, 2005, the Respondent reported ad book purchases totaling \$8,400.00 for a single fundraising affair, but failed to maintain internal records of such contribution checks and program booklet, in violation of Conn. Gen. Stat. §9-333i(f) (Rev. 2005.) The failure to maintain such records renders the task of properly allocating contributions from joint accounts impossible.

18) The investigation revealed that the committee held a fundraiser on October 17, 2005 at the home of Kathleen Bozzuto in Northford, however, Respondent failed to disclose in the October 26, 2005 Statement of Receipts and Expenditures (ED-45 Form) the date, time and place of a fundraiser where advertising purchases in program booklets were used, in violation of Conn. Gen. Stat. §9-333j(c).

19) It is found that Respondent, by 1) failing to list the date, time and place of a fundraiser where ad purchases in program booklets were used; 2) misrepresenting individual contributions over \$50 from individuals and \$250 from a business entity as ad book purchases; and 3)

failing to report \$6,850 by virtue of inadvertently omitting a page from her report, violated Conn. Gen. Stat. § 9-333j(c) (Rev. 2005).

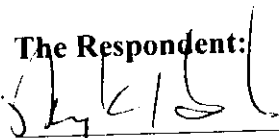
- 20) It is further found that Respondent may have violated Conn. Gen. Stat. § 9-333h(b) (Rev. 2005) by misallocating contributions from a joint checking account, but by failing to maintain internal records of such contribution checks, the proper allocation cannot be determined. By failing to maintain such internal records, the Respondent violated Conn. Gen. Stat. §§ 9-333h(a) and 9-333i(f).
- 21) 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.
- 22) 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.
- 23) 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.
- 24) 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

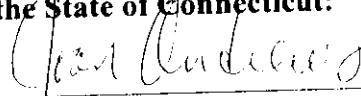
IT IS HEREBY ORDERED that on or before November 12, 2009, Respondent shall:

- 1) pay a civil penalty of six hundred dollars (\$600.00) to the State Elections Enforcement Commission; and
- 2) henceforth strictly comply with the requirements of Connecticut General Statutes §§9-333h, 9-333f, 9-333j, 9-333o & 9-333x(10) (Rev. 2005), now §§9-606, 9-607, 9-608, 9-613 and 9-622(10).

The Respondent:


Mary K. Hart
251 Totoket Road
North Branford, CT 06471

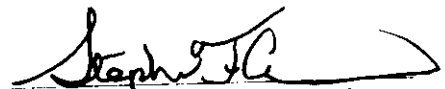
For the State of Connecticut:

BY: 
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: 11/14/09

Dated: 11/17/09

Adopted this 18th day of November of 2009 at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission