

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Bryan Stephens, Darien

File No. 2009-008

**AGREEMENT CONTAINING CONSENT ORDER FOR VIOLATIONS OF
CONNECTICUT GENERAL STATUTES**

This agreement, by and between Gwynne L. Grimes, of the Town of Pound Ridge, County of Westchester, State of New York, hereinafter "Respondent," and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with the Regulations of Connecticut State Agencies § 9-7b-54 and Connecticut General Statutes § 4-177 (c). In accordance herewith, the parties agree that:

1. Complainant alleged that the Darien Republican Club (hereinafter, the "DRC"), failed to register as an ongoing political committee in a timely manner pursuant to General Statutes §§ 9-602 and 9-605, and failed to disclose its expenditures as a political committee, pursuant to General Statutes § 9-608.
2. More specifically, Complainant alleged that because DRC solicited membership fees, charged "entry fees" to its "forums and programs," and had annually spent a "significant portion" of its funds on "in-kind" contributions for the election of Republicans to municipal and state offices, it was required as a "group of two or more individuals organized on an ongoing basis" to register as a political committee pursuant to General Statutes §§ 9-602 and 9-605, and to disclose its aforementioned receipts and expenditures pursuant to § 9-608.
3. Complainant also alleged that various individuals who have been officers of the DRC violated General Statutes § 9-605 (e) (1), also known as the "one person one PAC" rule, by their membership in the Darien Republican Town Committee (hereinafter, the "DRTC"), because they controlled more than one political committee.
4. The DRC is a membership club that has been in operation for several decades that has as its stated purpose "... to strengthen the Republican Party in Darien." The DRC raises funds through membership dues, fundraisers and various event fees. During the course of the investigation, the DRC disclosed annual expenditures in excess of \$1,000.00 for its promotional activities, with total expenditures for 2008 in the amount of \$9,817.30 and total receipts in 2008 in the amount of \$9,484.60.
5. Respondent at the time of this complaint was Chairperson of the DRC. Respondent's terms as chairperson of the DRC expired one day after the receipt of this complaint by the Commission.

6. General Statutes § 9-601, provides in pertinent part:

(1) "**Committee**" means a party committee, political committee or a candidate committee **organized**, as the case may be, for a single primary, election or referendum, or **for ongoing political activities, to aid or promote the success or defeat of any political party**, any one or more candidates for public office or the position of town committee member or any referendum question.

...

(3) "**Political committee**" means (A) a committee organized by a business entity or organization, (B) persons other than individuals, or **two or more individuals organized or acting jointly conducting their activities in or outside the state**, (C) an exploratory committee, (D) a committee established by or on behalf of a slate of candidates in a primary for the office of justice of the peace, **but does not mean a candidate committee or a party committee**, (E) a legislative caucus committee, or (F) a legislative leadership committee. ...

[Emphasis added.]

7. General Statutes § 9-602, provides in pertinent part:

(a) Except with respect to an individual acting alone, or with respect to a group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate, no contributions may be made, solicited or received and **no expenditures may be made, directly or indirectly, in aid of or in opposition to the candidacy for nomination or election of any individual or any party or referendum question, unless (1) the candidate or chairman of the committee has filed a designation of a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds**, or (2) the candidate has filed a certification in accordance with the provisions of section 9-604. In the case of a political committee, the filing of the statement of organization by the chairman of such committee, in accordance with the provisions of section 9-605, shall constitute compliance with the provisions of this subsection.

[Emphasis added.]

8. The Commission notes that prior to Public Act 10-187, pursuant to General Statutes § 9-602, two or more individuals acting together to promote the success or defeat of candidates were required to register as a political committee upon receiving or expending *any* amount of funds.¹
9. General Statutes § 9-605, provides in pertinent part:

(a) The chairperson of each political committee shall designate a campaign treasurer and may designate a deputy campaign treasurer. The campaign treasurer and any deputy campaign treasurer so designated shall sign a statement accepting the designation. The chairperson of each political committee shall file a registration statement described in subsection (b) of this section along with the statement signed by the designated campaign treasurer and deputy campaign treasurer with the proper authority, within ten days after its organization, provided that the chairperson of any political committee organized within ten days prior to any primary, election or referendum in connection with which it intends to make any contributions or expenditures, shall immediately file a registration statement.

(b) The registration statement shall include: (1) The name and address of the committee; (2) a statement of the purpose of the committee; (3) the name and address of its campaign treasurer, and deputy campaign treasurer if applicable; (4) the name, address and position of its chairman, and other principal officers if applicable; (5) the name and address of the depository institution for its funds; (6) the name of each person, other than an individual, that is a member of the committee; (7) the name and party affiliation of each candidate whom the committee is supporting and the office or position sought by each candidate; (8) if the committee is supporting the entire ticket of any party, a statement to that effect and the name of the party; ... (13) a statement indicating whether the committee is established for a single primary, election or referendum or for ongoing political activities; ...

¹ Since the filing of this complaint, Public Act 10-187 went into effect in June 2010, and there is now a “safe harbor” threshold whereby two or more individuals acting together to promote the success or defeat of candidates do not need to form a political committee until they receive contributions or make expenditures which exceed one thousand dollars. The DRC does not qualify for this “safe harbor” because its activities that are the subject of this complaint occurred *prior* to the aforementioned effective date of Public Act 10-187. In addition, as is detailed in Paragraph 4, the DRC would not have qualified for the safe harbor even had it been in effect as it exceeded the \$1000 threshold.

(c) The chairman of each political committee shall report any addition to or change in information previously submitted in a statement of organization to the proper authority not later than ten days after the addition or change.

(e) (1) No individual shall establish or control more than one political committee. ***The 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 may include, but shall not be limited to, the individual making the initial contribution to the committee. Such indicia shall not include (A) an individual communicating with (i) an officer of the political committee, or (ii) any individual establishing or controlling the political committee, or (B) the individual monitoring contributions made by the political committee.*** Any individual who, on December 31, 2006, has established or controls more than one political committee shall, not later than thirty days after said date, disavow all but one of such committees, in writing, to the State Elections Enforcement Commission. The provisions of this subdivision shall not apply to the establishment of an exploratory committee by an elected public official.

[Emphasis added.]

10. Complainant also alleged that various individuals violated “one person – one PAC” restrictions. Specifically, various individuals who have been officers of the DRC violated General Statutes § 9-605 (e) (1), by also being members of the DRTC. Upon investigation the facts did not support the conclusion that the DRC was established by the DRTC, which would be prohibited by General Statutes § 9-609(a), which prohibits a town committee from “...establish[ing] a committee other than a single party committee for purposes of [Chapter 155],” and specifies that a “...party committee or a political committee organized for ongoing political activities shall form no other political committees.”
11. The Commission dismisses, for the reasons detailed in paragraph 10 above, the allegation regarding violations of the “one person one PAC” rule embodied in General Statutes § 9-605 (e) (1) because this provision does not apply to the instant facts.
12. The Commission finds that the definition of “political committee” includes “two or more individuals organized or acting jointly conducting their activities in or outside the state.” General Statutes § 9-601 (3). The definition of “committee” includes “a political

committee organized . . . for ongoing political activities, to aid or promote the success or defeat of ... any one or more candidates for public office.”

13. Upon investigation, the Commission finds that the DRC has not registered as a political committee pursuant to General Statutes §§ 9-602 and 9-605, as detailed in paragraphs 7 and 9 above.
14. Furthermore, the Commission finds that the DRC provides Republican candidates with forums for municipal and statewide Republican candidates to “promote their candidacies,” and issues an Election Newsletter to support “[its] Republican candidates in their races against the Democrats in the November ... municipal election.” Finally, the Commission finds that the DRC also solicits contributions for the Republican Party, and promotes greater participation of Darien Republicans in town affairs, the Republican Party and Republican voter registration.
15. The Commission concludes with regards to registration requirements proscribed by General Statutes §§ 9-602 and 9-605, for the reasons detailed in paragraphs 11 and 12 above DRC was required to register as a political committee of two or more individuals if it has made expenditures supporting a candidates for municipal and state offices.
16. The Commission further concludes, that Respondent, as Chairperson of the DRC was required pursuant to General Statutes § 9-605 (a) to “...*file a registration statement described in subsection (b) of this section along with the statement signed by the designated campaign treasurer and deputy campaign treasurer with the proper authority, ...*” The Commission concludes therefore that Respondent, as Chairperson of the DRC, violated General Statutes § 9-605 (a), by failing to file a registration statement and designate a campaign treasurer for the DRC.
17. The Commission notes that it has had few cases in this area, but has addressed similar circumstances previously in two consent agreements and an advisory opinion. Specifically, the Commission in its decision *Complaint of David L. Guay*, File No. 86-153, determined that a social club known as the Brookfield Democratic Club (hereinafter “BDC”), which supported candidates at municipal and statewide office and registered with the Town Clerk, but failed to file nine (9) periodic financial reports or register with the Office of the Secretary of the State (as then required), violated General Statutes.
18. In *Guay*, the Commission levied a civil penalty on the Chairperson of the BDC *and required* the BDC to register as a political committee with the Office of the Secretary of the State (the filing repository at that time), and file its periodic financial

statements.

19. Additionally, in *In Re: Waterbury Italian-American Democratic Club*, File No. 90-157, the Commission levied a civil penalty on Respondent for making \$3,950.00 in political contributions over three years without registering as a political committee. Specifically, the Waterbury Italian-American Democratic Club (hereinafter WIADC), which had been in existence since 1910 and raised money through \$10 membership dues, violated General Statutes §§ 9-333d (now § 9-602) and 9-333g (now § 9-605) by failing to register and General Statutes § 9-333j (now § 9-608) by failing to file periodic financial statements. Furthermore, the Commission also required the WIADC to register with the Waterbury Town Clerk as a political committee and make all required periodic financial statements.
20. The Commission notes that historically it has advised membership groups regarding acceptable *non-partisan* activities and communications, while also advising that any such groups must not engage in expenditures that promote the success or defeat of specific candidates or parties. The Commission has *consistently warned* that such membership groups should not use un-regulated funds to sponsor public communications to influence the electorate on which candidates or parties to support. *See* Advisory Opinion, State Elections Commission, No. 1-6, September 25, 1974.
21. With regards to the complaint and investigation before the Commission, in this instance, the DRC made expenditures for activities and communications which promoted candidates and the party without forming a political committee. Specifically, the DRC engaged in spending to provide Republican candidates with forums to “promote their candidacies,” and issued an Election Newsletter to support “...our Republican candidates in their races against the Democrats in the November 8 municipal election.” The DRC also solicited contributions for the Republican Party, and promoted greater participation of Darien Republicans in town affairs, the Republican Party and Republican voter registration.
22. General Statutes § 9-608, provides in pertinent part:
 - (1) Each campaign treasurer of a committee, other than a state central committee, shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603, (A) on the tenth calendar day in the months of January, April, July and October, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, the statement shall be filed on the next business day, (B) on the seventh day preceding each regular state election, except that (i) in the case of a candidate or exploratory committee established for an office to be elected at a municipal election, the statement shall be filed on

the seventh day preceding a regular municipal election in lieu of such date, and (ii) in the case of a town committee, the statement shall be filed on the seventh day preceding each municipal election in addition to such date, and (C) if the committee has made or received a contribution or expenditure in connection with any other election, a primary or a referendum, on the seventh day preceding the election, primary or referendum. The statement shall be complete as of the last day of the month preceding the month in which the statement is required to be filed, except that for the statement required to be filed on the seventh day preceding the election, primary or referendum, the statement shall be complete as of seven days immediately preceding the required filing day. The statement shall cover a period to begin with the first day not included in the last filed statement. In the case of a candidate committee, the statement required to be filed in January shall be in lieu of the statement formerly required to be filed within forty-five days following an election.

23. With regards to Complainant's allegation that the DRC failed to disclose its expenditures as an ongoing political committee pursuant to General Statutes § 9-608, the Commission finds that the DRC, had it been properly been registered as a political committee pursuant to General Statutes § 9-605 (a), it would have been required to file financial statements pursuant to General Statutes § 9-608.
24. The Commission concludes, for the reasons detailed in paragraph 21 above, that the DRC upon registration as an ongoing political committee, as required by this agreement, will be lawfully required to file financial statements pursuant to General Statutes § 9-608.
25. 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 the Regulations of Connecticut State Agencies § 9-7b-56.
26. 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.
27. 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.

20. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent with respect to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent shall pay a civil penalty of three hundred dollars (\$300.00) on or before January 18, 2012.

IT IS FURTHER ORDERED that the Respondent shall strictly comply with General Statutes §§ 9-602, 9-605 and 9-608, and that Respondent shall register the DRC as an ongoing political committee with the proper authority within 30 days of the adoption of this agreement, or inform the current Chairperson or officers of the DRC of their duty to do so.

The Respondent:

For the State Elections Enforcement Commission:

By: Gwynne L. Grimes
Gwynne L. Grimes
~~11 Sellecks Walk~~
Pound Ridge, NY 10576
65 Old Logging Rd
Bedford, NY 10506

By: Shannon Clark Kief, Esq.
Shannon Clark Kief, Esq.
Legal Affairs Program Director
and Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, CT 06106

Dated: 1/24/12

Dated: 1/26/12

Adopted this 18th day of January, 2012 at Hartford, Connecticut by vote of the Commission.

Stephen Cashman
Stephen Cashman, Chairman
By Order of the Commission