

MAY 20 2011

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

ENFORCEMENT
COMMISSION

2011 MAY 20 P 12: 44

Complaint of Mark Dziubek,
Southington

File No. 2009-039

AGREEMENT CONTAINING CONSENT ORDER

This agreement, by and between Michael J. Fasulo (hereinafter, the "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 General Statutes § 4-177 (c). In accordance herewith, the parties agree that:

1. Respondent was treasurer of the Southington Republican Town Committee (hereinafter "SRTC") between August 4, 2004 and March 28, 2008.
2. The SRTC filed a *Statement of Receipts and Expenditures* (Form ED-45) with the Southington Town Clerk's office on July 11, 2005. In addition, the SRTC also filed a Form ED-45 with the aforementioned office on July 14, 2006.
3. Respondent was the legally designated treasurer of the SRTC at the time of the two filings described in paragraph 2 above. Pursuant to General Statutes § 9-606(a), as treasurer, the Respondent is responsible for receiving all contributions made to that committee and reporting those contributions in accordance with the requirements of General Statutes § 9-608.
4. Complainant alleged that the SRTC violated Gen. Stat. § 9-608 in connection with their aforementioned July 11, 2005 (hereinafter "2005 statement") and July 14, 2006 (hereinafter "2006 statement") statements with the Southington Town Clerk; specifically, that the 2005 statement failed to itemize \$6,875.00 for ad purchases in a program booklet and \$8,590.00 in "other purchases" not deemed contributions for a May 5, 2005 fundraiser, and that the 2006 statement failed to itemize \$2,050.00 for ad purchases in program booklets and \$7,700.00 in "other purchases" not deemed contributions for a May 6, 2006 fundraiser.
5. General Statutes § 9-608 (at the time of the transactions detailed herein § 9-333j), 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; ... (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; ...
[Emphasis added.]

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

...
(b) As used in this chapter and sections 9-700 to 9-716, inclusive, "*contribution*" does not mean:

...
(9) *The donation of any item of personal property by an individual to a committee for a fund-raising affair, including a tag sale or auction, or the purchase by an individual of any such item at such an affair,* to the extent that the cumulative value donated or purchased does not exceed fifty dollars;

(10) ... (B) *The purchase of advertising space which clearly identifies the purchaser, in a program for a fund-raising affair sponsored by a town committee, provided the cumulative purchase of such space does not exceed two hundred fifty dollars from any single town committee in any calendar year if the purchaser is a business entity or fifty dollars for purchases by any other person.* ...
[Emphasis added.]

7. The Commission finds that the 2005 statement at Section K "Fundraising Affairs" lists a "5/05 Southington Golf Tourney." In addition, data field 2 "Gross Proceeds by each category for each Fundraising affair (not considered contributions)" includes \$6,875.00 in "program book purchases" and \$8,598.00 in other "purchases not considered contributions" for this event. The Commission finds therefore that the total raised and reported for this event is \$15,464. Data field 3 "Purchase of Advertising Space in Program Book(s) Not Considered Contributions," is blank.
8. The Commission finds that 2006 statement at Section K "Fundraising Affairs" lists a "5/06 Southington Golf Tourney." In addition, data field 2 "Gross Proceeds by each category for each Fundraising affair (not considered contributions)" includes \$2,050.00 in "program book purchases" and \$7,710.00 in other "purchases not considered contributions" for this event. The Commission finds therefore that the total raised and reported for this event is \$9,760. Data field 3 "Purchase of Advertising Space in Program Book(s) Not Considered Contributions," is blank.

9. Upon investigation, Respondent indicated that while the total of \$9,760 in the 2006 statement was correct, the breakdown reported was incorrect, and should have been \$2,820 in ad purchases and \$6,940 in "other purchases not considered contributions." The 2005 statement as originally reported was accurate. Furthermore, the Commission finds that Respondent maintained and produced upon investigation detailed SRTC internal records for those persons and businesses that purchased ads in program booklets for the 2005 and 2006 tournaments.
10. Respondent admits that he reported the purchase of tickets for the golf tournaments described in paragraphs 7 and 8 as "other purchases not considered contributions" on both the 2005 statement and the 2006 statement. Respondent claims that he failed to report the purchasers of tickets as contributors on the mistaken belief that such ticket purchases were not contributions. To the contrary, a purchase of a ticket to a committee event is a contribution. The Commission finds that Respondent did, however, maintain and produce upon investigation detailed SRTC internal records for these ticket purchases.
11. The Commission finds and the Respondent admits that as detailed in paragraphs 7 and 8 above, while he reported the total amount of ad purchases in the 2005 statement and the 2006 statement, he did not itemize the specific purchasers of such advertising in program booklets for the 2005 and 2006 SRTC golf tournaments within the respective statements.
12. The Commission finds that Respondent's internal records described in paragraph 9 above include either the name or address or the name of the business and the business address for each purchaser of program book ads. In addition, the aforementioned internal records detail the names and addresses for each individual who purchased \$100 tickets to the 2005 and 2006 SRTC golf tournaments.
13. Upon review of the SRTC internal records described in paragraphs 9 and 10 above, the Commission finds that no individual purchased an ad for more than \$50, and business entity ads ranged from \$50-\$250, which comports with the requirements of General Statutes § 9-601a.
14. The Commission finds that while Respondent maintained records for those persons and businesses who purchased advertising in program booklets for the 2005 and 2006 program SRTC golf tournaments, Respondent nevertheless failed to disclose the aforementioned data on the 2005 statement and 2006 statement respectively as required by General Statutes § 9-608 (f).
15. The Commission concludes nevertheless, that for the reasons described in paragraph 11 above, Respondent violated General Statutes § 9-608 (f) by failing to itemize in the 2005 statement and the 2006 statement the names and addresses of persons and businesses who purchased ads in program booklets for the 2005 and 2006 SRTC golf tournaments.

16. With regard to the allegation pertaining to the reporting of other purchases not considered contributions in the 2005 statement and the 2006 statement, the Commission finds that Respondent, pursuant to General Statutes § 9-608 (c) (1) (A), failed to report and itemize as a contribution each individual who purchased a \$100 ticket for the 2005 and 2006 events, and disclose them properly on the 2005 statement and 2006 statement respectively.
17. The Commission concludes for the reasons described in paragraph 16 above that by failing to disclose the names and addresses of individuals who purchased tickets to the 2005 and 2006 SRTC golf tournaments, Respondent violated General Statutes § 9-608 (c) (1) (A).
18. The Commission finds, while the importance of full itemization of contributions and other receipts for the purposes of public disclosure cannot be overstated, that nevertheless Respondent's maintaining of detailed internal records which allowed him to produce records and cooperate with this investigation, are mitigating circumstances for the violations described in paragraphs 15 and 17 above. Furthermore, the very lateness of the filing of this complaint, some 3 and 4 years *after* the reports in question, has resulted in the lapse of the requirement to maintain records of the transactions under consideration, as well as the Respondent's role as treasurer for the SRTC.
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 the Regulations of Connecticut State Agencies § 9-7b-56.
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 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

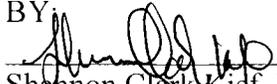
IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-608.

For the State of Connecticut

Dated:

6/25/11

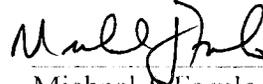
BY:


Shannon Clark Kief, Esq.
Legal Program Director,
and Authorized Representative
of the State Elections
Enforcement Commission
20 Trinity Street
Hartford, Connecticut

Dated:

5/19/11

The Respondent,



Michael J. Fasulo, *Treasurer for SRTC*
16 Cornerstone Court (8/4/04 - 3/28/08)
Plantsville, Connecticut

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Adopted this ___ day of May, 2011 at Hartford, Connecticut by vote of the Commission.



Stephen Cashman, Chairman
By Order of the Commission