

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Daniel R. Gaita, Bethel

File No. 2009-083

AGREEMENT CONTAINING CONSENT ORDER
FOR VIOLATIONS OF GENERAL STATUTES

This Agreement, by and between Nicholas J. Gazetos, hereinafter referred to as the "Respondent," of the Town of Bethel, County of Fairfield, State of Connecticut and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with General Statutes § 4-177(c) and section 9-7b-54 of the Regulations of Connecticut State Agencies.

In accordance herewith, the parties agree that:

1. On August 5, 2009 S. Lawrence Craybas filed with the Bethel town clerk's office an initial *Registration by Candidate* (SEEC Form 1), for his candidacy for First Selectman designating Respondent as treasurer of his candidate committee "Craybas '09." On that same day, Mr. Craybas and Paul R. Szatkowski each filed with the Bethel town clerk's office a *Certificate of Exemption from Forming a Candidate Committee (SEEC Form 1B)*, for their candidacies for Selectman designating Craybas '09 as their sponsoring committee. Respondent was designated as treasurer of Craybas '09 on the aforementioned registration statement.
2. Respondent, for the reasons so stated in paragraph 1, therefore was the legally designated treasurer of the Craybas '09, at all times relevant to this complaint, and pursuant to General Statutes § 9-606 (a), as treasurer, the Respondent was responsible for receiving all contributions made to that committee and reporting those contributions in accordance with the requirements of § 9-608.
3. Specifically, Complainant alleged:
 - a. That Respondent failed to itemize each expense incurred associated with an individual and the amount of \$2,149 for "signs and mailings" as reported on its September 8, 2009 *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20) due 7 days preceding the primary, as required by General Statutes §9-608;
 - b. That Respondent, on the Craybas '09 September 8, 2009 SEEC Form 20 , filed 7 days preceding the primary, disclosed a contribution in the amount of \$200 from an individual, but does not give the method of contribution in violation of General Statues § 9-608;

- c. That Respondent disclosed the incorrect reporting period for Craybas '09 on its September 8, 2009 SEEC Form 20;
 - d. That Respondent failed to properly itemize receipts and expenditures on the Craybas '09 September 8, 2009 SEEC Form 20 for the fair market costs of its campaign website, in violation of General Statutes § 9-608, in that the webhosting, video, and computer services from "Mr. Karl's" related to such website was valued at \$1.00, which was undervalued as compared to true costs; and that,
 - e. Respondent received a prohibited business entity contribution on behalf of Craybas '09 from Mr. Karl's, the provider of its campaign website in violation of General Statutes § 9-613.
4. The Commission addresses allegations in this complaint as they pertain to additional Respondents under separate respective documents.
5. General Statutes § 9-608 provides in pertinent part:

(a) (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.

...
(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 each payee; ... (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. Complainant alleged, as detailed in paragraph 3a, that Respondent failed to itemize \$2,149.00 in expenditures from an individual was originally disclosed by Craybas '09 with the notation "signs and mailings" as an expense incurred but not paid on the Craybas '09 SEEC Form 20 filed seven days preceding a primary on September 8, 2009 with the Bethel town clerk's office.
7. Upon investigation, the Commission finds that Respondent reported an expenditure as described in paragraph 6 above on the Craybas '09 SEEC Form 20 identifying the individual who made the expenditure, that it was "coordinated with reimbursement sought," but does *not* identify the candidates supported.

8. Respondent admits that he did not itemize the coordinated expenditures by an individual as alleged in paragraph 3a, and as reported on the original September 8, 2009 Craybas '09 SEEC Form 20. Furthermore, upon investigation, the Commission finds that Respondent has since amended the aforementioned SEEC Form 20, to report four separate expenditures that constituted a total of \$2,149.00 in coordinated expenditures made by the same individual, and indicating that the expenditures supported a candidate.
9. General Statutes § 9-608 (c) (1) (D) requires that a treasurer disclose "...an itemized accounting of each expense incurred but not paid..." which, as detailed in paragraphs 6 through 8 above, the Commission finds that Respondent failed to do.
10. The Commission concludes therefore that Respondent violated General Statutes § 9-608 by failing to itemize each of the four expenditures incurred by an individual on behalf of Craybas '09 on its original SEEC Form 20 filed with the Bethel town clerk's office on September 8, 2009 seven days preceding the primary.
11. General Statutes § 9-611 provides in pertinent part:

(a) No individual shall make a contribution or contributions to, for the benefit of, or pursuant to the authorization or request of, a candidate or a committee supporting or opposing any candidate's campaign for nomination at a primary, or any candidate's campaign for election, to the office of (1) Governor, in excess of three thousand five hundred dollars; (2) Lieutenant Governor, Secretary of the State, Treasurer, Comptroller or Attorney General, in excess of two thousand dollars; (3) chief executive officer of a town, city or borough, in excess of one thousand dollars; (4) state senator or probate judge, in excess of one thousand dollars; or (5) state representative or any other office of a municipality not previously included in this subsection, in excess of two hundred fifty dollars. The limits imposed by this subsection shall be applied separately to primaries and elections.

...

(d) No individual shall make a contribution to any candidate or committee, other than a contribution in kind, in excess of one hundred dollars ***except by personal check or credit card of that individual.***

[Emphasis added.]

12. Regarding the allegation detailed in paragraph 3b above, alleging that Respondent failed to disclose on the Craybas '09 September 8, 2009 SEEC Form 20 what the "method of contribution" was for a \$200.00 contribution from an individual, the Commission finds that neither data field for personal check or credit card was marked on the aforementioned financial statement. However, the Commission finds that Respondent did identify the individual contributor by name, address and occupation as related to the respective \$200.00 contribution.
13. The Commission finds that General Statutes § 9-611 (d) requires any contribution in excess of \$100.00 to be in the form of a personal check or credit card. The Commission further finds that § 9-608 requires that each contribution be *itemized*. The Commission concludes therefore that Respondent failed to disclose the method of payment of each contribution in excess of \$100.00 on the original SEEC Form 20 filed for Craybas '09 on September 8, 2009 in violation of §§ 9-608 and 9-611 (d).
14. The Commission notes that Respondent amended the filing referenced in paragraphs 12 and 13 above and disclosed the contribution of \$200.00 as by "personal check." The Commission further finds that Respondent has since the filing of this complaint amended the Craybas '09 SEEC Form 20 detailed herein, and otherwise itemized the individual contributor by name, address and occupation.
15. Complainant alleged, as described in paragraph 3c above, that Respondent disclosed the incorrect reporting period on the Craybas '09 September 8, 2009 SEEC Form 20, filed for the 7th day preceding the September 15, 2009 primary.
16. General Statutes § 9-608 (a) requires that for statements required to be filed on the seventh day preceding a primary "...the statement shall be complete as of seven days immediately preceding the required filing day." The Commission finds that the period for the filing described in paragraph 15 above should have been from the first day that was not included in the last filing through September 1, 2009 which would have been seven days preceding September 8, 2009.
17. The Commission further finds upon investigation that Craybas '09 records indicate that the relevant period would have been from August 4, 2009 through September 1, 2009, however, as originally filed Respondent reported August 4, 2009 through September 2, 2009, or one additional day.

18. The Commission finds, for the reasons described in paragraph 17 above, that Respondent misreported the reporting period for the SEEC Form 20 due 7 days preceding a primary on September 9, 2009, by one additional day, and therefore concludes that Respondent violated General Statutes § 9-608 (a) pertaining to the original September 9, 2009 Craybas '09 filing.
19. The Commission notes that since the filing of this complaint, Respondent has amended the September 9, 2009 Craybas '09 filing to report the accurate dates as detailed in paragraph 17 above and for the aforementioned reasons the Commission declines to take further action regarding this allegation.
20. Regarding the allegation detailed in paragraph 3d above, Complainant alleged that Respondent failed to properly itemize receipts and expenditures on its September 8, 2009 SEEC Form 20 for the fair market costs of its campaign website, in violation of General Statutes § 9-608, in that the webhosting, video, and computer services from "Mr. Karl's" related to such website was valued at \$1.00, which was undervalued as compared to true costs; and consequently, as detailed in paragraph 3e above, that Craybas '09 received a prohibited business entity contribution from the aforementioned provider of its campaign website in violation of § 9-613.
21. Upon investigation, the Commission finds that the aforementioned provision of webhosting services detailed herein was reported as an "in-kind contribution" from the "individual" Henry E. Karl, Jr. in the amount of \$1 by Respondent on the Craybas '09 September 8, 2009 SEEC Form 20. The Commission further finds that Respondent, upon receipt of this complaint, amended the aforementioned SEEC Form 20 to disclose the domain registration fee paid by Mr. Karl in the amount of \$19.00.
22. The Respondent and Mr. Karl each assert that at the time they believed that the latter was volunteering his services for the campaign, and the Commission found a lack of evidence to contradict these representations.
23. General Statutes § 9-601a (b)(4) provides that a "contribution" does *not* mean "uncompensated services provided by individuals volunteering their time.
24. The Commission concludes for the reasons detailed in paragraphs 21 and 22 above that the services provided by Mr. Karl detailed herein and under these limited circumstances were "uncompensated services" of Mr. Karl who was volunteering his time to support Craybas '09 and therefore not a "contribution" pursuant to General Statutes § 9-601a (b) (4). The Commission further concludes based on paragraph 20 above that Respondent nevertheless failed to itemize the in-kind contribution by Mr. Karl in the amount of \$19.00 for the registration of a domain name for Craybas '09 in violation of § 9-608 (c).

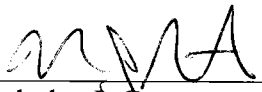
25. Finally, the Commission concludes that based on the provision of uncompensated services and the disclosure of an in-kind contribution by Mr. Karl in the amount of \$19.00, the allegation detailed in paragraph 3e above that Mr. Karl was providing a prohibited business entity contribution pursuant to General Statutes § 9-613 to Craybas '09 is not supported by the evidence and therefore is dismissed.
26. 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 Regulations of Connecticut State Agencies § 9-7b-56.
27. It is understood 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.
28. 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 challenge or contest the validity of this Agreement or Order hereinafter stated.
29. Upon the Respondent's agreement with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

ORDER

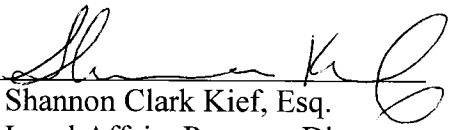
IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-608.

The Respondent:

For the State Elections Enforcement Commission:

By: 

Nicholas J. Gazetos
12 Cross Hill Road
Bethel, CT 06801

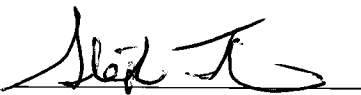
By: 

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: 2-14-2012

Dated: 2/23-12

Adopted this 15th day of February, 2012 at Hartford, Connecticut



Stephen F. Cashman, Chair
By Order of the Commission