

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

*In re* Audit Report for *Martinez for State Representative 2008*

File No. 2009-094

AGREEMENT CONTAINING A CONSENT ORDER

This Agreement by and between Respondents Lydia Martinez, candidate for the state representative in 2008 who established *Martinez for State Representative 2008*, and Carmen R. Vargas, campaign treasurer for the *Martinez for State Representative 2008* candidate committee, both of the City of Bridgeport, State of Connecticut, and the undersigned authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance herewith, the parties agree that:

1. The Commission initiated an investigation on September 30, 2009 into whether Lydia Martinez, a candidate for the 128<sup>th</sup> Assembly seat, and/or her candidate committee campaign treasurer, Carmen R. Vargas, violated General Statutes §§ 9-607, 9-608, CEP program statutes, regulations or requirements based up on information discovered during the audit of the *Martinez for State Representative 2008* candidate committee (hereinafter the "Committee"). The Committee participated in the Citizens' Election Program and received a grant of \$24,995 from the Citizens' Election Fund. By participating in the CEP, the campaign treasurer and candidate agreed to a voluntary expenditure limit of \$30,000, the limit placed on a participating candidate committee in a party-dominant, General Assembly district primary. Prior to terminating the committee, the treasurer returned to the Commission a surplus of \$9.71.
2. General Statutes § 9-608 (c) (1) (C) requires a campaign treasurer to itemize each expenditure made by the committee on financial disclosure statements filed periodically with the Commission. *See* General Statutes § 9-608 (c) (1) (C) (directing campaign treasurer to provide "itemized accounting of each expenditure, if any, including the full name and complete address of each payee, . . . 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 . . ."). To corroborate those expenditures, the treasurer must supply contemporaneous documentation of all expenditures paid on behalf of the committee. *See* General Statutes § 9-607 (f) (requiring treasurer to maintain "contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or other lawful purpose of the expenditure"). The general statutes require the campaign treasurer of a candidate

committee to retain all financial documentation from the committee for four years from the date of the last report that the candidate committee was required to file. *Id.*

3. In reviewing the Committee's financial documents, the Commission's investigator was unable to reconcile the campaign's documentation with the bank records. The Committee often used cash to satisfy its obligations, and the number of cash transactions by the Committee further complicated any attempt to reconstruct and reconcile the Committee's documentation with the bank records.
4. As reflected in the Commission's audit, the Committee's bank account recorded that the campaign took in \$29,999.71, just 29 cents under the CEP's \$30,000 expenditure limit. According to the Committee's financial disclosure forms, however, the campaign received approximately \$30,545.01, or \$545 over the CEP's voluntary expenditure limit for participating candidate committees.
5. Respondents provided documentation to the Commission's investigator that they hoped would explain the discrepancy between the bank records and the committee's disclosure forms, but, as stated previously, the volume of cash transactions made it impossible for the investigator to determine exactly what had occurred.
6. The Commission's audit also showed that the candidate had provided to the Committee in-kind contributions, for which the Committee neither paid the fair market value nor reimbursed the candidate pro rata.
7. A candidate participating in the Citizens' Election Program may provide only a limited amount of personal funds to her candidate committee. A participating candidate vying for a state representative seat may give no more than \$1,000 to her candidate committee. The amount the candidate provides is reduced from any grant the candidate committee receives from the Citizens' Election Fund. *See* General Statutes § 9-710 (c) (specifying that state representative candidates may provide up to \$1,000 to candidate committee); General Statutes § 9-705 (j) (1) (clarifying that Commission shall reduce qualified candidate committee's grant amount by any personal funds that candidate provided to candidate committee).
8. By failing to report an in-kind donation from the candidate of a postage meter as a contribution from the candidate, the candidate committee in effect received a grant from the Citizens' Election Fund that was \$138 more than it would have been if the Committee had reported the contribution from the candidate properly. This unreported contribution of \$138.50 plus the \$545.30 discrepancy results in \$673.80 that the candidate committee spent in excess of the expenditure limits imposed under the Citizens' Election Program.

9. Under General Statutes § 9-711 (a), if a qualified candidate committee makes an excess expenditure then the candidate and campaign treasurer shall be jointly and severally liable for paying for the excess expenditure and the campaign treasurer shall be subject to penalties under section 9-7b. *See* General Statutes § 9-711(a). General Statutes § 9-7b authorizes the Commission to impose a civil penalty of \$2,000 or twice the amount of any improper payment, whichever is greater, for violations of chapter 157. *See* General Statutes § 9-7b.
10. The Commission finds that the Committee violated General Statutes § 9-711 (a) by spending \$664.09 more than it was permitted to spend as a state representative candidate committee participating in the Citizens' Election Program, in a party-dominant primary. That sum reflects the \$673.80 that the Committee spent over the campaign finance limit, less the \$9.71 that Committee returned to the Citizens' Election Fund as surplus following the 2008 primary.
11. General Statutes § 9-606 (a) (2) – (4) requires a campaign treasurer to make and report all expenditures, including those incurred but not yet paid, of the relevant committee for which he serves as the treasurer and file the financial disclosure documents with the appropriate repository. *See* General Statutes §§ 9-606 (a) (2)-(4) (imposing affirmative duty on treasurer to file periodic reports and account for all expenditures). *See also* General Statutes § 9-608 (c) (1) (C) (mandating that campaign finance disclosure statements must include itemized accounting of each expenditure).
12. Respondent Vargas failed to report several transactions on the committee's financial disclosure forms, including a \$500 payment to the candidate on August 23, 2008, 11 days after the primary. These unreported expenditures lacked appropriate supporting documentation to justify the expenditure.
13. The Commission concludes that by omitting those expenditures from the statements Respondent Vargas violated General Statutes §§ 9-606 (a) (2) – (4).
14. The respondents admit all jurisdictional facts and agree that this Agreement and Order shall have the same force and effect as a final decision and Order entered into after a full hearing and shall become final when adopted by the Commission.
15. Respondents waive:
  - 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.

16. Upon the respondents' agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against either respondent concerning this matter or any other matters that were the subject of the Final Audit Report for the *Martinez for State Representative 2008* campaign.

17. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the respondents in any subsequent hearing, if the same becomes necessary.

**ORDER**

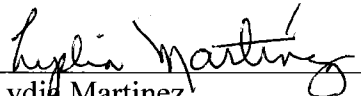
IT IS HEREBY ORDERED THAT Respondents Martinez and ~~Vazquez~~<sup>Vargas</sup> are jointly and severally liable to pay \$664 to the Citizens' Election Fund for the excess expenditures that the Committee made in 2008, and that Respondent Vargas shall also pay a civil penalty of \$1,000 to the Commission for violation of General Statutes §§ 9-606, 9-607, 9-608, 9-710, and 9-711, and shall henceforth strictly comply with those statutory provisions.

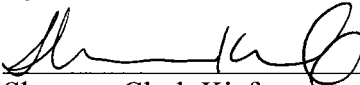
The Respondents

For the State of Connecticut

By:

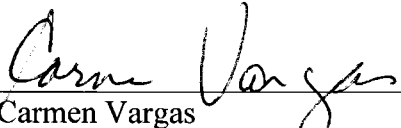
By:

  
Lydia Martinez  
Bridgeport, Connecticut

  
Shannon Clark Kief  
Legal Program Director and Authorized  
Representative of the State  
Elections Enforcement Commission  
20 Trinity Street, Suite 101  
Hartford, Connecticut 06106

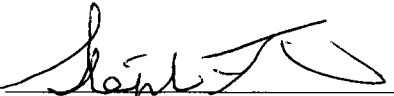
Dated: 10-11-11

Dated: 10-9-11

  
Carmen Vargas  
Bridgeport, Connecticut

Dated: 10-11-11

Adopted this 19<sup>th</sup> day of October 2011 at Hartford, Connecticut by vote of the Commission.

  
Stephen F. Cashman, Chairman  
By Order of the Commission