

FEB 16 2011

ENFORCEMENT COMMISSION

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Tim O' Brien, New Britain

File No. 2010-010

**AGREEMENT CONTAINING CONSENT ORDER AND
CIVIL PENALTY FOR VIOLATIONS OF
GENERAL STATUTES § 9-607, § 9-608 & 9-707**

This agreement, by and between Tonilynn Collins, City of New Britain, County of Hartford, 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. Upon receiving the Draft Audit Report for his 2008 candidate committee for the 24th House District *O'Brien for State Representative* (hereinafter "Committee"), Representative Tim O'Brien brought this complaint against the Treasurer of that Committee, Respondent Tonilynn Collins.
2. Complainant was concerned regarding the "substantial number and amount of transfer of money, made by the treasurer, between the campaign account and ... her own personal account." Specifically, Complainant requested that: "*In the interest of the integrity of the Citizen Election Program and my 2008 campaign committee, I would like to ask that you investigate this matter and take the appropriate action.*"
3. The Committee received a grant in the amount of \$24,755 from the Citizens' Election Program on September 25, 2010. The assigned Commission Accounts Examiner confirms that Respondent through her attorney has responded to the aforementioned Draft Audit Report, and satisfied requests for further information regarding the same.
4. Throughout the 2008 campaign cycle, Respondent did not seek the advice of the Commission regarding her duties and responsibilities as treasurer, and did not attend any of the training programs offered by the Commission regarding the Citizens' Election Program. She has stated she regrets doing so.

5. General Statutes § 9-606, 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. The campaign treasurer of each committee shall deposit contributions in the committee's designated depository within fourteen days after receiving them. ...***
[Emphasis added.]

6. General Statutes § 9-607, provides in pertinent part:

(g) (1) As used in this subsection, (A) ***"the lawful purposes of his committee" means: (i) For a candidate committee or exploratory committee, the promoting of the nomination or election of the candidate who established the committee, ...***

(2) Unless otherwise provided by this chapter, ***any campaign treasurer, in accomplishing the lawful purposes of his committee, may pay the expenses of:*** (A) Advertising in electronic and print media; (B) any other form of printed advertising or communications including "thank you" advertising after the election; (C) campaign items, including, but not limited to, brochures, leaflets, flyers, invitations, stationery, envelopes, reply cards, return envelopes, campaign business cards, direct mailings, postcards, palm cards, "thank you" notes, sample ballots and other similar items; (D) political banners and billboards; (E) political paraphernalia, which is customarily given or sold to supporters including, but not limited to, campaign buttons, stickers, pins, pencils, pens, matchbooks, balloons, pads, calendars, magnets, key chains, hats, tee shirts, sweatshirts, frisbees, pot holders, jar openers and other similar items; (F) purchasing office supplies for campaign or political purposes, campaign photographs, raffle or other fund-raising permits required by law, fund-raiser prizes, postage, express mail delivery services, bulk mail permits, and computer supplies and services; (G) banking service charges to maintain campaign and political accounts; (H) subscriptions to newspapers and periodicals which enhance the candidacy of the candidate

or party; (I) lease or rental of office space for campaign or political purposes and expenses in connection therewith including, but not limited to, furniture, parking, storage space, utilities and maintenance, provided a party committee or political committee organized for ongoing political activities may purchase such office space; (J) lease or rental of vehicles for campaign use only; (K) lease, rental or use charges of any ordinary and necessary campaign office equipment including, but not limited to, copy machines, telephones, postage meters, facsimile machines, computer hardware, software and printers, provided a party committee or political committee organized for ongoing political activities may purchase office equipment, and provided further that a candidate committee or a political committee, other than a political committee formed for ongoing political activities or an exploratory committee, may purchase computer equipment; (L) compensation for campaign or committee staff, fringe benefits and payroll taxes, provided the candidate and any member of his immediate family shall not receive compensation; (M) travel, meals and lodging expenses of speakers, campaign or committee workers, the candidate and the candidate's spouse for political and campaign purposes; (N) fund raising; (O) reimbursements to candidates and campaign or committee workers made in accordance with the provisions of this section for campaign-related expenses for which a receipt is received by the campaign treasurer; (P) campaign or committee services of attorneys, accountants, consultants or other professional persons for campaign activities, obtaining or contesting ballot status, nomination, or election, and compliance with this chapter; (Q) purchasing campaign finance reports; (R) repaying permissible campaign loans made to the committee that are properly reported and refunding contributions received from an impermissible source or in excess of the limitations set forth in this chapter; (S) conducting polls concerning any political party, issue, candidate or individual; (T) gifts to campaign or committee workers or purchasing flowers or other commemorative items for political purposes not to exceed one hundred dollars to any one recipient in a calendar year or for the campaign, as the case may be; (U) purchasing tickets or advertising from charities, inaugural committees, or other civic organizations if for a political purpose, for any candidate, a candidate's spouse, a member of a candidate's campaign staff, or members of committees; (V)

the inauguration of an elected candidate by that candidate's candidate committee; (W) hiring of halls, rooms, music and other entertainment for political meetings and events; (X) reasonable compensation for public speakers hired by the committee; (Y) transporting electors to the polls and other get-out-the-vote activities on election day; and (Z) any other necessary campaign or political expense.

7. Upon investigation, the Commission found that a total of \$31,275 was deposited in the Committee account, which constituted \$6,220 in net qualifying contributions; \$300 in personal funds; and \$24,755 in grant funds. However, the Commission further found that the Committee bank statements indicated \$36,150.96 was expended through that account; which results in \$4,969.96 in unaccounted expenditures based on the total amount of aforementioned bank account deposits.
8. Respondent acknowledged, and Commission audit calculations confirmed, that she diverted \$5,000.15 from the Committee account to the treasurer's personal account. The Commission finds that the Respondent by personally making deposits into the Committee account repaid approximately \$4,948.95 of the aforementioned diverted funds.
9. The Commission finds that the most accurate numbers pertaining to the diversion of funds described herein are the debits by Respondent from the Committee account totaling \$5,005.15, and deposits into the Committee made personally by Respondent totaling \$4,948.95. The Commission therefore finds a difference between debits and deposits of \$56.20, which cannot be reconciled with certainty.
10. Specifically, Respondent as Treasurer of *O'Brien for State Representative* made, between February 2008 and August 2008, 29 debits from the candidate committee checking account to her personal checking account at the same bank in the total amount of \$ 5,005.15. Specifically, in February 2008, Respondent made five withdrawals between \$5.15 and \$80 in the total amount of \$225.15. In March 2008 Respondent made an additional five withdrawals ranging from \$25 to \$250 and in the total amount of \$1,075.00. In July and August 2008 Respondent made a total of 9 withdrawals from the Committee account ranging from \$5 to \$792 and totaling \$1,509.00.

11. Further, Respondent, between May 2008 and January 2009, made a total of 9 credits to the candidate committee checking account from her personal checking account in the total amount of \$ 4,948.95. Respondent made a \$350 deposit into the Committee account in March 2008. In April and May 2008 Respondent made a total of 10 withdrawals ranging from \$20 to \$700 and totaling \$2,196.00. In May and June 2008 respondent made a total 4 deposits into the Committee account ranging from \$129 to \$00 and totaling \$819.00. Finally, in September 2008, Respondent made three deposits for a total of \$2,000 into the Committee account. Based on the above calculations, the Respondent still owes approximately \$56.20 (\$5,005.15 -\$4,948.95).
12. The difference between the amount of \$5005.15 which was taken by Respondent and the amount returned by Respondent of \$4,948.95 is \$56.20. This difference cannot be precisely explained due to the manner that the records were maintained.
13. Further, there is information that Respondent is the care-giver to two adult parents with exigent medical needs, and that Respondent was under related pressures of this circumstance throughout the relevant time period. In addition Respondent concedes that she did not avail herself to Commission training programs, and believed that she was "in over her head."
14. It is concluded that Respondent violated General Statutes § 9-607 (g) (4), by using campaign funds for her own personal use, specifically, to pay expenses incident to the care of her parents and her own personal expenses.
15. General Statutes § 9-608, 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, ...***

[Emphasis added.]

16. The Commission finds that pertaining to the aforementioned transactions described herein, Respondent failed to itemize each on respective Committee financial disclosure statements as required by §9-608.
17. The Commission concludes that the Respondent violated §9-608 (a), General Statutes, by failing to itemize debits and credits personally made by Respondent pursuant to her diversion of Committee funds into her personal checking account and subsequently replace those funds back into the Committee checking account.
18. General Statutes § 9-707, provides:

Following the initial deposit of moneys from the Citizens' Election Fund into the depository account of a qualified candidate committee, ***no contribution, loan, amount of the candidate's own moneys or any other moneys received by the candidate or the campaign treasurer on behalf of the committee shall be deposited into said depository account,*** except (1) grants from the fund, and (2) any additional moneys from the fund as provided in sections 9-713 and 9-714.

[Emphasis added.]

19. The Commission finds that pertaining to the aforementioned deposits described herein, Respondent deposited them into the Committee depository account as prohibited by §9-707.
20. The Commission concludes that the Respondent violated §9-707, General Statutes, by depositing her personal and family funds into the Committee checking account, which were impermissible funds received on behalf of a candidate that had qualified for the Citizens' Election Program and had received a grant from the Citizens' Election Fund as such.
21. Commission precedent in pertaining to the diversion or the misappropriation of candidate committee funds and in cases where the Commission finds the *personal use* of political committee funds, indicate remedies of restitution of funds that were diverted or misused; as well as civil penalties or referrals to the Chief State's Attorney for criminal prosecution.
22. The Commission notes that because all but \$56.20 of \$5005.15 in diverted Committee funds have been accounted for and returned to the Committee depository account, it deems no additional forfeiture by Respondent necessary. Therefore, in keeping with its precedent, the Commission considers whether the facts and circumstances in this instance warrant that the Respondent pay a civil penalty and consideration of referral to the Chief State's Attorney for their consideration.

23. Section § 9-7b-49 of the Regulations of Connecticut State Agencies provides guidelines for the Commission in determining a civil penalty to be imposed. In its determination of the amount of the civil penalty to be imposed, then Commission may consider among other mitigating or aggravating circumstances:
- (1) the gravity of the act or omission;
 - (2) the amount necessary to insure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions; and
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
24. The Commission notes that there are some indications that the Respondent intended to return the money directed out of the Candidate committee into her personal account, and evidence suggests that she did so throughout the campaign and prior to this complaint. Specifically, prior to the awarding of the CEP grant on September 25, 2010 and to the filing of this Complaint on February 1, 2010, Respondent made 9 deposits into the Committee account evidencing intent to return the funds.
25. Taking these circumstances under consideration in this matter, the gravity of Respondent's conduct is severe. As treasurer, Respondent was legally required to administer and account for candidate committee funds pursuant to Chapters 155 and 157, which she intentionally failed to do.
26. Respondent too, by replacing funds originally diverted from the candidate committee account even before this complaint was filed, took steps to make the system whole. The Commission has had no prior experience or history with Respondent regarding similar acts or omissions. Finally, Respondent has been cooperative during this investigation, and has through her attorney and personally shown deep remorse for her actions.
27. The Commission considers the duties and responsibilities of a treasurer of the most serious nature, and the systemic breach of such a most egregious violation of campaign finance laws, but is utilizing its civil authority due to what it perceives as the mitigating circumstances detailed in paragraphs 25 through 27 above. Respondent acknowledges that the above violations are serious and subject her to possible criminal penalties.
28. In cases involving personal use by a treasurer of committee funds, the Commission always seriously considers referral of the Respondent to the Chief State's Attorney, United States Attorney or United States Department of Justice for criminal prosecution. In this matter, the Commission has carefully considered the unique circumstances present here, including discussions with the Chief State's Attorney regarding the potential elements of a criminal matter; that the Respondent has no prior cases with the Commission, the

Respondent's agreement to refrain from serving as treasurer for an aggregate period of four years; and the Respondent's specific family burdens and circumstances pertaining to her role as caregiver to her elderly and ailing father.

29. The Commission for the aforementioned reasons so stated declines exercise its authority pursuant to General Statutes § 9-7b (8) to refer this matter bearing upon egregious violations of campaign finance laws to the Chief State's Attorney for its review and consideration.
30. 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. Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
31. 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.
32. 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.
33. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her.

ORDER

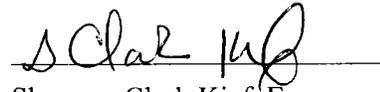
IT IS HEREBY ORDERED that Respondent shall pay a civil penalty in the amount of seven hundred fifty dollars (\$750.00) no later than February 25, 2011 and shall henceforth strictly comply with § 9-604, § 9-608 and § 9-707.

IT IS FURTHER ORDERED that the Respondent is reprimanded and agrees not to serve as treasurer or officer of any candidate, party or political committee for a period of two years from the adoption of this agreement, which when aggregated with two years since she last served as treasurer, is a four year hiatus from serving as a treasurer.

For the State Elections Enforcement Commission:

Dated: 2/17/11

BY:



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

Respondent:

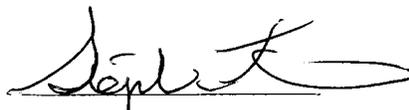
Dated: 2/15/11

BY:



Tonilynn Collins
242 Belden Avenue
New Britain, Connecticut

Adopted this 16th day of February, 2011 at Hartford, Connecticut.



Stephen F. Cashman, Chairman
By Order of the Commission