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STATE ELECTIONS

JUN 22 2010

ENFORCEMENT COMMISSION

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In Re Garofalo 08

File No. 2010-049

AGREEMENT CONTAINING CONSENT ORDER AND RESTITUTION PAYMENT
FOR VIOLATIONS OF CONNECTICUT GENERAL STATUTES ~~§9-607(g)(2)(L)~~ and
REGULATIONS OF CONNECTICUT STATE AGENCIES ~~§ 9-706-2(b)(3)~~.

This agreement, by and between Marc Garofalo of the City of Derby and Nan Birdwhistell of the Town of Woodbridge, County of New Haven, State of Connecticut, hereinafter referred to as the Respondents, 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. Respondent Marc Garofalo was a candidate for State Representative for the 114th General Assembly District, and Respondent Nan Birdwhistell was the Treasurer of *Garofalo 08*, the candidate committee formed to finance Marc Garofalo's campaign for State Representative in the November 2008 state election.
2. Respondent Garofalo was a participating candidate in the Citizens' Election Program, applied for and received a grant in the amount of \$24,990.00 from the Citizens' Election Fund for said election. Pursuant to the Commission's 2008 General Assembly Audit Program, Commission staff determined that *Garofalo 08* had made payments for services to a relative of the candidate, and at its April 21, 2010 regular meeting, the Commission voted to initiate an investigation into the matter.
3. Connecticut General Statutes §9-607(g) provides, in pertinent part:

(2) Unless otherwise provided by this chapter, any campaign treasurer, in accomplishing the lawful purposes of his committee, may pay the expenses of: . . .
(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***; . . . [Emphasis added.]
4. In addition, Regulations of Connecticut State Agencies § 9-706-2 provides, in relevant part:

(b) In addition to the requirements set out in Section 9-706-1 of the Regulations of Connecticut State Agencies, participating candidates and the treasurers of such participating candidates shall comply with the following Citizens' Election Program requirements. ***Participating candidates and the treasurers of such participating candidates shall not spend funds in the participating candidate's depository account for the following:***

 1. Personal use, as described in Section 9-607(g)(4) of the Connecticut General Statutes;

2. The participating candidate's personal support or expenses, such as for personal appearance or the candidate's household day-to-day food items, supplies, merchandise, mortgage, rent, utilities, clothing or attire, even if such personal items (such as the participating candidate's residence, or business suits) are used for campaign related purposes;

3. ***Payments to the participating candidate or the participating candidate's family members, including: a participating candidate's spouse***, civil union partner, sibling, child, grandchild, parent, grandparent, aunt, uncle; or the participating candidate's spouse's or civil union partner's sibling, child, grandchild, parent, grandparent, aunt, uncle; or the spouse, civil union partner, or child of any such individuals related to the participating candidate or his/her spouse or civil union partner, except payment(s) to the participating candidate or the participating candidate's committee worker or the participating candidate's family member serving as a committee worker if such individual is seeking reimbursement for a permissible expenditure for which he/she received authorization from the campaign treasurer to make such expenditure, and such participating candidate or committee worker provides the campaign treasurer with a written receipt or other documentary evidence from the vendor proving payment of the expenditure, as required by Section 9-607(j) of the Connecticut General Statutes; . . . [Emphasis added.]

5. General Statutes § 9-706(b) further provides, in pertinent part, that the an application for a grant under the Citizens' Election Fund shall include a written certification that:

(7) The campaign treasurer of the candidate committee will expend all moneys received from the fund in accordance with the provisions of subsection (g) of section 9-607 and regulations adopted by the State Elections Enforcement Commission under subsection (e) of this section; . . .

6. *Garofalo 08* made a payment, on or about November 18, 2008, to the candidate's spouse. The payment was verified against backup documentation and bank statements provided by *Garofalo 08* to the Commission. The candidate committee paid the candidate's wife \$520.00 for transportation for the campaign.

7. The expenditure identified on the Itemized Campaign Finance Disclosure Statement (SEEC Form 30), in the instance of the payment identified in paragraph 6, above, was reported as made to "Margaret Vicidomino Garofalo." The payment was for wages for transportation for the campaign. The candidate confirmed that the recipient of this payment was his wife.

8. The compensation to Respondent Garofalo's spouse, described in paragraph 6, above, violated General Statutes § 9-607(g)(2)(L) and Regulations of Connecticut State Agencies § 9-706-2. Respondent Garafalo acknowledges that said payments violated the statute and regulation cited above, and have offered to return the total amount of the payment, five hundred and twenty dollars (\$520.00), to the Citizens' Election Fund. See In Re David Scribner 2008, File No. 2010-18.

9. Respondent Garafalo maintains that Mrs. Garofalo was retained by *Garofalo 08* solely because of her availability and reliability in providing transportation for the committee and that Respondent Garafalo indicates that there was no intent to personally benefit from the payment, but that they were simply not aware of the statute and regulation.

10. 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 after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
11. 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 Respondents and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
12. The 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 agreement or Order entered into pursuant to this agreement.
13. Upon the Respondents' compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against them pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that Respondent Garofalo shall refund the amount of the payment described in paragraph 6, above, five hundred and twenty dollars (\$520.00) to the Citizens' Election Fund on or before June 23, 2010.

IT IS FURTHER ORDERED that the Respondents shall henceforth strictly comply with the requirements of Connecticut General Statutes §§9-607(g)(2)(L) and Regulations of Connecticut State Agencies § 9-706-2.

For the State of Connecticut

Dated: 6/22/10

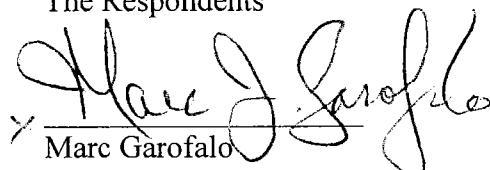
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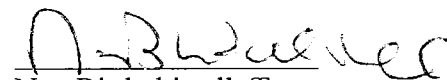
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The Respondents



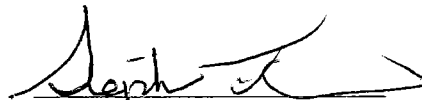
Marc Garofalo
95 Academy Hill Road
Derby, CT

Dated: 6/18/2010



Nan Birdwhistell, Treasurer
Garofalo 08
16 Cleft Rock Lane
Woodbridge, CT

Adopted this 23rd day of June, 2010 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission