

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by a SEEC Elections Officer

RESPONDENT:
George O. Porter
314 Olivia Street
Derby, CT 06418

File No. 2010-088 CNF

FINAL DECISION

The above-captioned matter was heard as a contested case on July 13, 2011, pursuant to Chapter 54 of the Connecticut General Statutes, § 9-7b of the Connecticut General Statutes and § 9-7b-35 of the Regulations of Connecticut State Agencies, at which time Attorney Patrick Lamb appeared on behalf of the State of Connecticut and the Respondent, George O. Porter, did not appear. Documentary and testimonial evidence was presented.

After careful consideration of the entire record, the following facts are found and conclusions of law are made:

1. This matter was referred to the Enforcement Unit of the State Elections Enforcement Commission (hereinafter the "Commission") by Elections Officer Nancy Staniewicz on or after June 29, 2010. *State's Exhibit 13.*
2. Albert P. Lenge was designated as Hearing Officer on April 13, 2011 by order of the State Elections Enforcement Commission. The designation of Hearing Officer Lenge and accompanying Notice of Hearing and Order to Show Cause were delivered to the Respondent on July 2, 2011. *State's Exhibit 2.*
3. On May 6, 2010, Mr. Porter accepted the nomination of the Republican Party for the 41st district seat for Judge of Probate. *State's Exhibit 4.* On July 6, 2010, Mr. Porter submitted a written request to the Secretary of the State's Office that his name be removed from the ballot. *State's Exhibit 8.* Mr. Porter did not appear on the ballot on November 2, 2010. *State's Exhibit 11.*

4. General Statutes § 9-604 (a) provides, in relevant part, as follows: “**Each candidate for a particular public office . . . shall form a single candidate committee** for which he shall designate a campaign treasurer and a depository institution situated in this state as the depository for the committee’s funds and shall file a committee statement containing such designations, **not later than ten days after becoming a candidate**, with the proper authority as required by section 9-603” (Emphasis added.)
5. General Statutes § 9-604 (b) provides, in relevant part, as follows: “**The formation of a candidate committee by a candidate** and the filing of statements pursuant to section 9-608 **shall not be required if the candidate files a certification** with the proper authority required by section 9-603, **not later than ten days after becoming a candidate**, and any of the following conditions exist for the campaign: (1) The candidate is one of a slate of candidates whose campaigns are funded solely by a party committee or a political committee formed for a single election or primary and expenditures made on behalf of the candidate’s campaign are reported by the committee sponsoring the candidate’s candidacy; (2) the candidate finances the candidate’s campaign entirely from personal funds and does not solicit or receive contributions, provided if said candidate personally makes an expenditure or expenditures in excess of one thousand dollars to, or for the benefit of, said candidate’s campaign for nomination at a primary or election to an office or position, said candidate shall file statements according to the same schedule and in the same manner as is required of a campaign treasurer of a candidate committee under section 9-608; (3) the candidate does not receive or expend funds in excess of one thousand dollars; or (4) the candidate does not receive or expend any funds, including personal funds, for the candidate’s campaign.” (Emphasis added.)
6. General Statutes § 9-623 (b) provides as follows: “(1) If any campaign treasurer fails to file any statement required by section 9-608, or if any candidate fails to file either (A) a statement for the formation of a candidate committee as required by section 9-604, or (B) a certification pursuant to section 9-603 that the candidate is exempt from forming a candidate committee as required by section 9-604, within the time required, the campaign treasurer or candidate, as the case may be, shall pay a late filing fee of one hundred dollars. (2) In the case of any such statement or certification that is required to be filed with the State Elections Enforcement Commission, the commission shall, not later than ten days after the filing deadline is, or should be, known to have passed, notify by certified mail, return receipt requested, the person required to file that, if such statement or certification is not filed not later than twenty-one days after such notice, the person is in violation of section 9-603, 9-604 or 9-608.”

7. Ms. Staniewicz, having been notified, via the Secretary of the State's Office, on or about May 19, 2010, of the Republican Party's filing of a Certificate of Party Endorsement containing the designation of Mr. Porter as a candidate, sent a letter to Mr. Porter. ***State's Exhibits 4, 6, and 13.*** Her letter, dated May 20, 2010, stated that Mr. Porter had a responsibility to register as a candidate with the Commission within ten days of the May 19, 2010 date, or a \$100 fine would be imposed. ***State's Exhibits 6 and 13.***
8. Ms. Staniewicz, having not received any response to her letter or any candidate registration from the Respondent within ten days, sent a second letter to Mr. Porter on June 8, 2010. ***State's Exhibits 7 and 13.*** Pursuant to General Statutes § 9-623 (b) (2), this letter was sent by certified mail, return receipt requested, and informed Mr. Porter that the matter would be referred to the Enforcement Unit of the Commission if no registration was filed within 21 days. ***State's Exhibits 7 and 13.***
9. After 21 days had expired, and no registration was filed, Ms. Staniewicz referred the matter to the Enforcement Unit of the Commission. ***State's Exhibit 13.*** Failure to file within the prescribed time period after notice is given is a *per se* violation of General Statutes § 9-604. *See* General Statutes § 9-623 (b) (2). Commission staff sent an additional letter to Mr. Porter, on July 15, 2010, which notified him of the referral to the Commission's Enforcement Unit and advised that he may be able to avoid further action by submitting his registration and a \$200.00 payment to the Commission by July 30, 2010. ***State's Exhibit 9.***
10. On July 6, 2010, Mr. Porter submitted a written request to the Secretary of the State's Office that his name be removed from the ballot. ***State's Exhibit 8.***
11. On November 2, 2010, Mr. Porter's name did not appear on the ballot for the 41st district seat for Judge of Probate. ***State's Exhibit 11.***
12. On April 8, 2011, Mr. Porter filed SEEC Forms 1 and 1B with the Commission. ***State's Exhibits 10 and 13.*** The SEEC Forms 1 and 1B register the candidate with the Commission and exempt him from the requirement to form a candidate committee. Mr. Porter certified on the SEEC Form 1B that he was exempt from forming a candidate committee because he did not spend or receive any funds, including personal funds, for his campaign. ***State's Exhibit 10.***
13. It is concluded that the Respondent violated General Statutes § 9-604 by failing to form either a candidate committee or file an exemption from the requirement to form a candidate committee

within ten days after having become a candidate and by failing to file within the 21 days after Ms. Staniewicz's notice.

14. It is also concluded that the Respondent has subsequently filed the appropriate registration information, filing the exemption from forming a candidate committee on the ground that he would not spend or receive any funds. No evidence was presented that Mr. Porter spent or received any funds in furtherance of his candidacy that would have made him ineligible for this exemption.
15. Mr. Porter did seek removal of his name from the ballot on July 6, 2010 and his name did not appear on the ballot for the 41st district seat for Judge of Probate. *State's Exhibits 8 and 11.* Nevertheless, this does not absolve Mr. Porter of the responsibility to file a registration statement with the Commission. *See General Statutes § 9-623 (b) (1).* This is especially so given Ms. Staniewicz's repeated attempts to contact him about this responsibility.
16. The fact that the candidate spent no money in furtherance of his candidacy does, however, partially ameliorate any other concerns regarding the failure to disclose the candidate's campaign finances, because there were none to disclose.
17. General Statutes § 9-7b (a) (2) provides, in pertinent part, that the Commission shall have the power to levy a civil penalty not to exceed "two thousand dollars per offense or twice the amount of any improper payment or contribution, whichever is greater, against any person the commission finds to be in violation of any provision of chapter 155 or 157." The Commission may levy a civil penalty against any person only after giving the person an opportunity to be heard at a hearing. *See General Statutes § 9-7b (a) (2).*
18. General Statutes § 9-623 (b) (4) provides, in pertinent part, that "[t]he penalty for any violation of section . . . 9-604 . . . shall be a fine of not less than two hundred dollars or more than two thousand dollars or imprisonment for not more than one year, or both."
19. In consideration of the factors listed in § 9-7b-48, Regs., Conn. State Agencies, it is found that while (1) the Respondent neither responded to the notice of hearing nor attended the July 13, 2011 hearing, (2) the State presented no evidence that the Respondent had a history of campaign finance violations, (3) as of the date of the hearing, the Respondent had substantially complied with the registration requirements, and (4) the Respondent did not spend or receive any money in connection with his candidacy and therefore any public harm suffered by lack of disclosure was minimal.

The following Order is adopted on the basis of these findings and conclusions:

ORDER

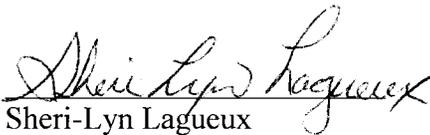
IT IS HEREBY ORDERED THAT the Respondent shall pay a civil penalty in the amount of \$200.00, payable to the State Elections Enforcement Commission, within 30 days of notice of this decision, for violation of General Statutes § 9-604, pursuant to General Statutes § 9-7b (a) (2).

Adopted this 24th day of August 2011 at Hartford, Connecticut by vote of the Commission.



Stephen F. Cashman, Chairman
By order of the Commission

I certify the preceding final decision was sent to Respondent George O. Porter, 314 Olivia Street, Derby, CT 06418, via first-class mail on August 24, 2011 with delivery confirmation tracking and certified mail, return receipt requested.



Sheri-Lyn Lagueux
Clerk of the Commission