

JUL 05 2011

ENFORCEMENT COMMISSION

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re Audit Report for *Martin A. Goldberg for Senate*

File No. 2010-157

AGREEMENT CONTAINING A CONSENT ORDER

This Agreement by and between the campaign treasurer for the *Martin A. Goldberg for Senate* candidate committee, of the Town of Fairfield, State of Connecticut, hereinafter referred to as the Respondent, 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 December 15, 2010 into whether Martin A. Goldberg, a candidate for the 28th Senate District, and/or his candidate committee campaign treasurer violated General Statutes §§ 9-606, 9-607, 9-608, CEP program statutes, regulations or requirements based up on information discovered during the audit of *Martin A. Goldberg for Senate* candidate committee (hereinafter the "Committee"). The Committee participated in the Citizens' Election Program and received a grant of \$84,960 from the Citizens' Election Fund. In a review of the Committee's records, a Commission auditor concluded that backup documentation was not provided for 22 expenditures, totaling approximately \$14,000, or 16 percent of the grant money provided to the Committee. The Commission's audit also identified several transactions that did not appear on the committee's campaign finance disclosure statements. Investigation conducted after the initiation of this complaint resulted in the campaign providing additional documentation to the Commission, but the candidate committee could not provide documentation for several transactions that the campaign treasurer reported on the committee's financial disclosure forms. Additionally, the candidate committee's financial reporting forms did not include three expenditures totaling \$3,285 that appeared on the committee's bank statement but were not itemized on the committee's financial disclosure statements. The committee could not explain the omission to the Commission's investigator.
2. General Statutes § 9-607 (f) provides the following in relevant part:

The campaign treasurer **shall preserve** all internal records of transactions required to be entered in reports filed pursuant to section 9-608 for four years from the date of the report in which the transactions were entered. **Internal records required to be maintained in order for any permissible expenditure to be paid from committee funds include, but are not limited to, contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or other lawful purpose of the expenditure. . . .** In the case of a candidate committee,

the campaign treasurer or the candidate, if the candidate so requests, **shall preserve all internal records, cancelled checks, debit cards slips and bank statements for four years from the date of the last report required to be filed under subsection (a) of section 9-608.** [Emphasis added.]

3. Furthermore, Regulations of Connecticut State Agencies § 9-706-1(b) provides in pertinent part as follows:

The absence of contemporaneous detailed documentation indicating that an expenditure was made to directly further the participating candidate's nomination for election or election **shall mean that the expenditure was not made to directly further the participating candidate's nomination for election or election, and thus was an impermissible expenditure.** Contemporaneous detailed documentation shall mean documentation which was created at the time of the transaction demonstrating that the expenditure of the qualified candidate committee was a campaign-related expenditure made to directly further the participating candidate's nomination for election or election to the office specified in the participating candidate's affidavit certifying the candidate's intent to abide by Citizens' Election Program requirements. Contemporaneous detailed documentation shall include but not be limited to the documentation described in section 9-607(f) of the Connecticut General Statutes. [Emphasis added.]

4. Here, there is no evidence that Respondent maintained the requisite internal records for the expenditures at issue. The Commission therefore concludes that Respondent violated General Statutes § 9-607 (f).
5. 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 she 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).
6. Respondent failed to report three transactions, totaling \$3,285. These transactions were included in the candidate committee's bank statements but were omitted from the committee's financial disclosure reports filed with the Commission. The campaign offered no explanation why the transactions were omitted from the candidate committee's financial disclosure statements.
7. The Commission concludes that by omitting those expenditures from the statements Respondent violated General Statutes §§ 9-606 (a) (2) – (4).

8. 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 into after a full hearing and shall become final when adopted by the Commission. Respondent neither admits nor denies the Commission's conclusions set forth in paragraphs 4-7 but is willing to accept the terms of this document in order to allow the Commission to conclude its investigation.
9. 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 to challenge or contest the validity of the Order entered into pursuant to this Agreement.
10. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him concerning this matter or any other matters that were the subject of the Final Audit Report for the 2008 *Martin Goldberg for State Senate* campaign.
11. 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 Respondent in any subsequent hearing, if the same becomes necessary.

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall pay a civil penalty of four hundred dollars (\$400.00) to the Commission to settle this matter and shall henceforth strictly comply with the requirements of General Statutes §§ 9-606 and 9-607.

The Respondent

For the State of Connecticut

By:


Cynthia Kruth
Fairfield, Connecticut

By:


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

Dated: 6/30/11

Dated: 7/11/11

Adopted this 27th day of July, 2011 at Hartford, Connecticut by vote of the Commission.


Stephen F. Cashman, Chairman
By Order of the Commission