

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by a SEEC Elections Officer

RESPONDENT:
Martha Kelly
57 Curtiss Street
Hartford, CT 06106

File No. 2010-161CNF

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, Martha Kelly, 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 October 29, 2010. *State's Exhibit 10.*
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 June 30, 2011. *State's Exhibit 1.*
3. On August 30, 2010, Ms. Kelly accepted the nomination of the Green Party for the 1st district seat for State Senator. *State's Exhibit 5.* Ms. Kelly appeared on the ballot on November 2, 2010. *State's Exhibit 9.*

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 she 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 § 9-608 (a) provides, in relevant part, as follows: “(1) **Each campaign treasurer of a committee**, other than a state central committee, **shall file a statement**, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603, (A) **on the tenth calendar day in the months of January, April, July and October**, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, the statement shall be filed on the next business day, (B) **on the seventh day preceding each regular state election**, except that (i) in the case of a candidate or exploratory committee established for an office to be elected at a municipal election, the statement shall be filed on the seventh day preceding a regular municipal election in lieu of such date, and (ii) in the case of a town committee, the statement shall be filed on the seventh day preceding each municipal election in addition to such date, and (C) **if the committee has made or received a contribution or expenditure in connection with any other election, a primary or a referendum, on the seventh day preceding the election, primary or referendum**. The

statement shall be complete as of the last day of the month preceding the month in which the statement is required to be filed, except that for the statement required to be filed on the seventh day preceding the election, primary or referendum, the statement shall be complete as of seven days immediately preceding the required filing day. The statement shall cover a period to begin with the first day not included in the last filed statement. In the case of a candidate committee, the statement required to be filed in January shall be in lieu of the statement formerly required to be filed within forty-five days following an election.” (Emphasis added.)

7. 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.”
8. Ms. Staniewicz, having been notified, via the Secretary of the State’s Office, on or about September 24, 2010, of the Green Party’s filing of a Certificate of Party Endorsement containing the designation of Ms. Kelly as a candidate, sent a letter to Ms. Kelly. *State’s Exhibits 5, 6, and 10.* Her letter, dated September 27, 2010, stated that Ms. Kelly had a responsibility to register as a candidate with the Commission within ten days of the September 27, 2010 date, or a \$100 fine would be imposed. *State’s Exhibits 6 and 10.*
9. 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 Ms. Kelly on October 8, 2010. *State’s Exhibits 7 and 10.* Pursuant to General Statutes § 9-623 (b) (2), this letter was sent by certified mail, return receipt requested, and informed Ms. Kelly 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 10.*
10. 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 10.* 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 Ms. Kelly, by first-class mail, delivery confirmation requested, on March 9, 2011 which notified her of the referral to the Commission's Enforcement Unit and advised that she may be able to avoid further action by submitting her registration and a \$200.00 payment to the Commission by March 23, 2011. ***State's Exhibit 8.***

11. On November 2, 2010, Ms. Kelly's name appeared on the ballot for the 1st district seat for State Senator. ***State's Exhibit 9.***
12. 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.
13. As of the morning of the July 13, 2011 hearing, the Respondent had still not filed a registration statement for the 2010 election. ***State's Exhibit 10.***
14. 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).
15. 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."
16. In consideration of the factors listed in § 9-7b-48, Regs., Conn. State Agencies, it is found that while (1) the State presented no evidence that the Respondent had a history of campaign finance violations, (2) the Respondent, as of the date of the July 13, 2011 hearing, had still not registered either a candidate committee or an exemption from forming one, (3) because the Respondent had not registered and disclosed her funding source, which may have required her or her committee to submit regular campaign finance disclosure statements, she may have also failed to provide the public with disclosure of her or her committee's financial activities throughout the entire election cycle, (4) Commission staff made diligent efforts to inform and remind the Respondent of her registration requirements, and (5) the Respondent neither responded to the notice of hearing nor attended the July 13, 2011 hearing.

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

ORDER

IT IS HEREBY ORDERED that the Respondent shall file a registration statement, a SEEC Form 1 and either a SEEC Form 1A or 1B, as the case may be, as well as any campaign finance disclosure statements that were required of her or her committee depending on that registration, within 30 days of notice of this decision, pursuant to General Statutes § 9-7b (a) (3) (F).

IT IS HEREBY ORDERED that the Respondent shall pay a total civil penalty in the amount of \$500.00, 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).

IT IS HEREBY ORDERED that if the Respondent fails to file such registration and any required campaign finance disclosure statements within 30 days of notice of this decision, then the Respondent shall pay a total civil penalty in the amount of \$2,000.00, payable to the State Elections Enforcement Commission, within 37 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 Martha Kelly, 57 Curtiss Street, Hartford, CT 06106, 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