

**STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION**

In Re Knox 2008  
Commission Initiated Complaint

File No. 2011-007

**AGREEMENT CONTAINING CONSENT ORDER AND  
CIVIL PENALTY FOR VIOLATIONS OF GENERAL STATUTES**

This agreement, by and between Dr. Thomas I. Knox, Town of West Hartford, 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. The Commission initiated this investigation based on the findings in a Draft Audit Report for Knox 2008 (hereinafter "Knox 2008 Audit") Respondent's candidate committee for the 18th House District at the November 4, 2008 election. Respondent registered his candidate committee on June 15, 2008 and Mr. Jay S. Sarzen was designated as treasurer of Knox 2008.
2. The investigation was predicated upon audit results and authorized by unanimous motion of the Commission at its February 16, 2008 regular monthly Commission meeting.
3. Respondent filed a *Citizens' Election Program-Affidavit of Intent to Abide* (SEEC Form CEP 10) on June 16, 2008. The Committee received a grant in the amount of \$24,995.00 from the Citizens' Election Program on October 6, 2008.
4. The Knox 2008 Audit indicated that (1) there were sixteen instances for which backup documentation was not provided to the State Elections Enforcement Commission for corresponding expenditures (hereinafter "Audit Finding 1") and (2) electronic debits and credits were made to the committee's registered single checking account to and from other accounts (hereinafter "Audit Finding 2").
5. The investigation of Audit Finding 2 resulted in evidence that the candidate was acting in some instances as his own treasurer.

6. The Commission, under a separate agreement, treats conduct by the Knox 2008 treasurer.

7. 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. ...

(d) No person shall act as a campaign treasurer or deputy campaign treasurer unless the person is an elector of this state, and a statement, signed by the chairman in the case of a party committee or political committee or by the candidate in the case of a candidate committee, designating the person as campaign treasurer or deputy campaign treasurer, has been filed in accordance with section 9-603. In the case of a political committee, the filing of a statement of organization by the chairman of the committee, in accordance with the provisions of section 9-605, shall constitute compliance with the filing requirements of this section. No provision of this subsection shall prevent the campaign treasurer, deputy campaign treasurer or solicitor of any committee from being the campaign treasurer, deputy campaign treasurer or solicitor of any other committee or prevent any committee from having more than one solicitor, but no candidate shall have more than one campaign treasurer. *A candidate shall not serve as the candidate's own campaign treasurer or deputy campaign treasurer*, except that a candidate who is exempt from forming a candidate committee under subsection (b) of section 9-604 and has filed a certification that the candidate is financing the candidate's campaign from the candidate's own personal funds or is not receiving or expending in excess of one thousand dollars may perform the duties of a campaign treasurer for the candidate's own campaign.  
[Emphasis added.]

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

(d) Except as provided in subsections (j) and (k) of this section, ***no payment in satisfaction of any financial obligation incurred by a committee shall be made by or accepted from any person other than the campaign treasurer*** and then only according to the tenor of an authorization issued pursuant to subsection (a) of this section.

(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. ...***

9. Upon investigation, Respondent indicated that he is the sole owner of a medical practice. As such, he controls the bank account for his business. His personal account, business account and his Knox 2008 candidate committee account were all maintained through the same depository. Since he was an authorized signatory for the campaign account, all three of these accounts would appear on one screen when he did banking on-line through the internet. Specifically, he accessed and utilized the candidate committee account from this on-line screen.
10. Respondent further asserts that it was customary for him to transfer funds between the three accounts described in paragraph 9 above to meet his personal and professional expenditure obligations. When the campaign account became available and somewhat aligned with his other accounts, Respondent claims that he transferred money to the business and personal accounts to meet obligations.
11. Respondent asserts that he and Mr. Sarzen, his treasurer, learned after the election that his control of his own candidate committee checking account as described in paragraphs 9 and 10 above was not an acceptable practice. However, the Commission notes that Respondent has previously served as a treasurer for a candidate committee and therefore should have had a heightened awareness of rules governing the expenditure of campaign funds based on his prior experience as treasurer.

12. Respondent as part of this investigation has provided copies of the applicable bank statements to reflect the transfers described in paragraph 13 below. Respondent claims that when he realized the improprieties in transferring funds between his candidate committee account and his business and personal accounts he would transfer money back into the account to make it whole.

13. The chart below chronologically details the type and date of transactions ("Transaction Date"), whether the personal or business account was part of the transfer ("Account"), the amount of the transfer ("Amount"), and the resulting outstanding amount from the Knox 2008 account ("Knox 2008 Outstanding"), based on bank records of the wire transfers described in paragraphs 11 and 12 above made by Respondent between the Knox 2008 bank account and his business and personal bank accounts:

<u>Transaction/Date</u>	<u>Account</u>	<u>Amount</u>	<u>Knox 2008 Outstanding</u>
Debit/08/25/08	Personal	(\$4,000.00)	-4,000.00
Credit/09/05/08	Personal	\$4,000.00	0.00
Debit/09/12/08	Business	(\$1,000.00)	-1,000.00
Debit/09/12/08	Personal	(\$1,000.00)	-2,000.00
Credit/09/15/08	Personal	\$1,000.00	-1,000.00
Credit/09/16/08	Personal	\$1,000.00	0.00
Debit/09/18/08	Personal	\$750.00	750.00
Debit/10/06/08	Personal	(\$750.00)	0.00
Debit/10/31/08	Business	(\$3,000.00)	-3,000.00
Debit/10/31/08	Business	(\$700.00)	-3,700.00
Credit/11/06/08	Business	\$2,500.00	-1,200.00
Credit/11/10/08	Business	\$294.48	-905.52*

\*Please note: The remaining \$905.52 was paid to the candidate to pay postage incurred by 11/08/08.

14. The Commission finds that the transactions detailed in paragraph 13 above, where Knox 2008 campaign funds are transferred between the campaign account and Respondent's personal and business accounts were not within the lawful purpose of a candidate committee pursuant to General Statutes § 9-607 (g) (1).

15. It is concluded that Respondent violated General Statutes § 9-607 (g), by using campaign funds for his own personal use, specifically, to transfer campaign funds between his campaign account and his personal and business accounts as detailed in paragraphs 13 and 16 above.

16. As detailed in paragraph 7 above, General Statutes § 9-606 (a) (2) provides that the campaign treasurer of each committee shall be responsible for making expenditures. Additionally, § 9-606 (d) prohibits any person from acting as a campaign treasurer unless a statement signed by the candidate in the case of a candidate committee, designating the person as campaign treasurer has been filed in accordance with § 9-603.
17. Finally, General Statutes § 9-607 (d) and (g), as detailed in paragraph 8 above, provide that no payment in satisfaction of any financial obligation incurred by a committee shall be made by any person other than the campaign treasurer. (See In re: Russo for Senate Campaign, File No. 2009-066.) However, under no circumstance can a candidate serve as a treasurer for that candidate's committee pursuant to General Statutes § 9-606 (d).
18. Respondent asserts that it was never his intention to take and keep any funds from the Knox 2008 account or to add any impermissible funds into the account. The Commission notes that consistent with this assertion, Respondent was able and did balance the accounts, so that the candidate committee reflected the true balance of permissible receipts and CEP grant funds.

19. 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.]

20. The Commission finds that pertaining to the deposits detailed in paragraph 13 above, originating from Respondent's business and personal accounts, Respondent deposited funds from these respective accounts into the Committee depository account as prohibited by §9-707.
21. While the Commission finds Respondent's total diversion amounting to \$10,450, substantial, it nevertheless deems Respondent's balancing of the accounts, as a mitigating factor under these circumstances.

22. The Commission concludes that the Respondent violated §9-707, General Statutes, by depositing personal and business account 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.
23. Despite the mitigating factor described in paragraphs 18 and 21 above, the Commission, nevertheless considers the obligations and intent to abide with the CEP's requirements 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 paragraph 22 above. Respondent acknowledges that the above violations are serious and subject him to possible criminal penalties.
24. Commission precedent pertaining to the diversion or the misappropriation of candidate committee funds and the *personal use* of those funds, indicate remedies of restitution of the funds that were diverted or misused; as well as civil penalties or referrals to the Chief State's Attorney for criminal prosecution. See *Complaint of Adam Gutcheon*, Windsor, File No. 2002-182; *Complaint of Tom Swan*, Coventry, File No. 2003-147, *In Re David Larkin*, File No. 2008-046; *Complaint of Tim O' Brien*, New Britain, File No. 2010-010.
25. In this instance the Commission may consider the fact that the individual who diverted funds had previously been a committee treasurer, was a doctor, has an MBA, and based on such advanced educational attainment, can be considered a sophisticated player, as aggravating. Furthermore, Respondent diverted public funds on a scale double that of the most recent Commission case, in the amount of approximately \$10,450. Further, Respondent diverted funds to two separate accounts, one personal and one business, which indicates conscious and discrete choices with regard to how the public funds were to be diverted.
26. It should be noted however that Respondent returned the funds to the candidate committee account in a relatively compressed time period, and returned diverted funds prior to the filing of a complaint with the Commission.
27. Regulations of Connecticut State Agencies § 9-7b-49 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, the 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.

- 28. Taking the aforementioned regulations into account along with the circumstances under consideration in this matter, the gravity of Respondent's conduct, which included twelve transfers between three accounts including his candidate committee, is severe.
- 29. As candidate and CEP participant, Respondent was legally required to follow the requirements of Chapters 155 and 157, which he intentionally failed to do. Considering the second element, Commission staff believes that the amounts diverted have since been returned to the Knox 2008 account. Furthermore, Respondent by replacing funds originally diverted from the candidate committee account even before this complaint was filed, arguably took steps to make the system whole. As discussed, these funds were also returned in a more compressed time frame, then the most recent case of this kind, and thus arguably depriving the system of public funds for less a time period.
- 30. In cases involving personal use by a candidate 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, nevertheless 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.
- 31. 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.
- 32. 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.

33. 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.

34. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him.

**ORDER**

IT IS HEREBY ORDERED that Respondent shall pay a civil penalty in the amount of two thousand dollars (\$2,000.00) no later than July 5, 2011 and shall henceforth strictly comply with General Statutes §§ 9-603, 9-606 and 9-707.

For the State Elections Enforcement Commission:

Dated: 7/11/11

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: 7/1/11

BY: 

Dr. Thomas I. Knox  
118 Fuller Drive  
West Hartford, Connecticut

Adopted this 27<sup>th</sup> day of July, 2011 at Hartford, Connecticut.



Stephen F. Cashman, Chairman  
By Order of the Commission