

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by a SEEC Elections Officer

RESPONDENT:
Christopher Hetrick
11 Glenwood Drive
East Hampton, CT 06424

File Nos. 2010-191NF
and 2011-021NF

FINAL DECISION

These matters were 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, Christopher Hetrick, 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. These matters were referred to the Enforcement Unit of the State Elections Enforcement Commission (hereinafter the "Commission") by Elections Officer Nancy Staniewicz on or after November 26, 2010 and February 11, 2011, respectively. *State's Exhibit 9.*
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 sent to the Respondent on June 30, 2011. *State's Exhibits 1 and 2.*
3. "Kinsella for Judge of Probate" has been registered as a candidate committee with the State Elections Enforcement Commission from March 8, 2010 to the present. *State's Exhibits 3 and 9.* Mr. Hetrick has served as treasurer of "Kinsella for Judge of Probate" from March 8, 2010 to the present. *State's Exhibits 3 and 9.*

4. 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 . . . (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.” (Emphasis added.)
5. 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.”
6. On October 26, 2010, the seventh day preceding the regular state election, Mr. Hetrick was required to file a financial disclosure statement on behalf of “Kinsella for Judge of Probate” per General Statutes § 9-608 (a) (1) (B), but did not. *State’s Exhibit 4*.
7. On November 5, 2010, Ms. Staniewicz sent a letter to Mr. Hetrick, stating that the Commission had not received an itemized financial disclosure statement from him that was due on October 26, 2010. *State’s Exhibit 4*. The letter imposed a \$100 late fine and requested that he file the statement within 21 days. *State’s Exhibit 4*. The letter also informed Mr. Hetrick that if he did not submit the statement within 21 days, then pursuant to General Statutes § 9-623, Ms. Staniewicz would refer the matter to the Commission’s Enforcement Unit where the penalty would automatically become at least \$200. *State’s Exhibit 4*. Failure to file within the prescribed time period after notice is given is a *per se* violation of General Statutes § 9-608. See General Statutes § 9-623 (b) (2).

8. After 21 days had expired, and no disclosure statement for the seventh day preceding the November 2010 election was filed, Ms. Staniewicz referred the matter to the Commission's Enforcement Unit. ***State's Exhibit 9.*** Failure to file within the prescribed time period after notice is given is a *per se* violation of General Statutes § 9-608. See General Statutes § 9-623 (b) (2).
9. On January 10, 2011, Mr. Hetrick was required to file a financial disclosure statement on behalf of "Kinsella for Judge of Probate" per General Statutes § 9-608 (a) (1) (A), but did not. ***State's Exhibit 5.***
10. On January 21, 2011, Ms. Staniewicz sent a letter to Mr. Hetrick, by certified mail, return receipt requested, stating that the Commission had not received an itemized financial disclosure statement from him that was due on January 10, 2011. ***State's Exhibit 5.*** The letter imposed a \$100 late fine and requested that she file the statement within 21 days. ***State's Exhibit 5.*** The letter also informed Mr. Hetrick that if he did not submit the statement within 21 days, then pursuant to General Statutes § 9-623, Ms. Staniewicz would refer the matter to the Commission's Enforcement Unit where the penalty would automatically become at least \$200. ***State's Exhibit 5.***
11. After 21 days had expired, and no disclosure statement for the January quarterly report was filed, Ms. Staniewicz referred the matter to the Commission's Enforcement Unit. ***State's Exhibit 9.*** Failure to file within the prescribed time period after notice is given is a *per se* violation of General Statutes § 9-608. See General Statutes § 9-623 (b) (2).
12. It is concluded that the Respondent violated General Statutes § 9-608 by failing to timely file financial disclosure statements on the seventh day preceding the November 2010 election and on January 10, 2011, and by failing to file the statements within the 21 days after Ms. Staniewicz's respective notices.
13. Evidence was presented that Commission staff was persistent and rigorous in its efforts to contact the Respondent about the delinquent filings. ***State's Exhibits 4, 5, 6, 7, 8, and 9.***
14. As of the morning of the July 13, 2011 hearing, neither the October 26, 2010 seventh day preceding the election statement nor the January 10, 2011 quarterly statement had been submitted by the Respondent. ***State's Exhibit 9 and Testimony of Ms. Staniewicz.***
15. In addition, pursuant to General Statutes § 9-608 (e), the treasurer of a candidate committee for a November election is required to distribute or expend any surplus not later than January 31

and file a termination statement within seven days of that distribution or file a deficit report within this timeframe in the case of a deficit. The Respondent, as treasurer of a November 2011 candidate committee, did neither and remained open as of the morning of the July 13, 2011 hearing. *State's Exhibit 9 and Testimony of Ms. Staniewicz.*

16. 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).
17. General Statutes § 9-623 (b) (4) provides, in pertinent part, that “[t]he penalty for any violation of section . . . 9-608 . . . 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.”
18. In addition, General Statutes § 9-7b (a) (3) (B) further provides that this Commission may, when it “finds that an intentional violation of any provision of Chapter 155 or 157 has been committed, after an opportunity to be heard at a hearing conducted in accordance with sections 4-176e to 4-184, inclusive,” order “one or more of the following sanctions: (i) Removal of a campaign treasurer . . . [and] (ii) prohibition on serving as a campaign treasurer [or] deputy campaign treasurer . . . for a period not to exceed four years”
19. In consideration of the factors listed in § 9-7b-48, Regs., Conn. State Agencies, in particular that while (1) the State presented no evidence that the Respondent had a history of prior campaign finance violations, (2) the Respondent, as of the date of the July 13, 2011 hearing, had not submitted the required statements and has therefore failed to provide the public with *any* disclosure of the committee’s activities for the periods covered by those statements, (3) Commission staff has both informed the Respondent of his duties as treasurer and made diligent efforts to contact him, and (4) the Respondent neither responded to the notice of hearing nor attended the July 13, 2011 hearing, it was recommended that the Commission assess a civil penalty against the Respondent in the amount of \$500.00 for each of his violations of General Statutes § 9-608, for a total of \$1,000.00.
20. Given that the two statements at issue in this hearing remain outstanding and that the committee remains open past the statutory deadline, it was also recommended that the Commission require the Respondent to submit these filings, as well as a termination or deficit statement, as the case may be, or else face the higher civil penalties and sanctions.

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

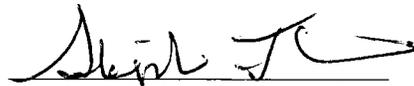
ORDER

IT IS HEREBY ORDERED THAT the Respondent, or his agent, shall file financial disclosure statements that were due to be filed on October 26, 2010 and January 10, 2011, as well a termination statement or deficit statement, as the case may be, 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 civil penalty in the amount of \$500.00 per violation, a total of \$1,000.00, payable to the State Elections Enforcement Commission, within 30 days of notice of this decision, for violations of General Statutes § 9-608, pursuant to General Statutes § 9-7b (a) (2).

IT IS HEREBY ORDERED THAT if the Respondent fails to file the two financial disclosure statements and/or a termination statement or deficit statement, as the case may be, within 30 days of notice of this decision, then (1) the Respondent shall pay a civil penalty in the amount of \$1,000.00 per violation, a total of \$2,000.00, payable to the State Elections Enforcement Commission, within 37 days of notice of this decision, for violations of General Statutes § 9-608, pursuant to General Statutes § 9-7b (a) (2); and (2) the Respondent shall be removed from position as treasurer of this committee and prohibited from serving as treasurer or deputy treasurer for any committee for a period of one year from the date of this decision, pursuant to General Statutes § 9-7b (a) (3) (B).

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 Christopher Hetrick, 11 Glenwood Drive, East Hampton, CT 06424, 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