

SEP 16 2011

ENFORCEMENT DIVISION

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Donald A. Brown, Thompson

File No. 2011-080

**AGREEMENT CONTAINING CONSENT ORDER
AND CIVIL PENALTIES**

This Agreement, by and between James Morton, of the Town of Hartford, County of Hartford, State of Connecticut, hereinafter 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. Complainant alleged violations of General Statutes §§ 9-602 (a), 9-605 (b) & (d), and 9-621 (c), by Respondent, the President and Chief Executive Officer of the YMCA of Greater Hartford.
2. During a May 26, 2011 special meeting of the Putnam Board of Selectman, the Board voted unanimously to set a referendum date of June 23, 2011. Official notice of the referendum was signed on June 1, 2011 at which time the referendum became legally pending.
3. The referendum pertained whether to authorize the Mayor of the Town of Putnam to acquire sixty-five acres of land from the business Wheelabrator Putnam, through a gift. Further, the referendum authorized the town to gift fifteen acres of this land to the YMCA of Greater Hartford in order for it to establish the Regional Community YMCA Family Center on the site in Putnam.
4. On or about June 8, 2011 and June 15, 2011, the YMCA of Greater Hartford made expenditures totaling of approximately \$7,500 for the design and publishing of three advertisements advocating support for the referendum.
5. The YMCA of Greater Hartford placed a June 8, 2011 advertisement in *The Shopper's Guide*, a circular available in the Town of Putnam. The advertisement included the statement: "Let's Make A Splash Together! Why your "yes" vote June 23 makes a difference for you and your community."
6. The second and third advertisements at issue were placed in the aforementioned *The Shopper's Guide*, in its June 15, 2011 issue. These advertisements also included the language detailed in paragraph 5 above.

7. The advertisements by the YMCA of Greater Hartford described in paragraphs 5 and 6 above did not contain the words "paid for by," and did not identify Respondent as the President and Chief Executive Officer, or otherwise as its agent.

8. General Statutes § 9-602, provides in pertinent part:

(a) Except with respect to an individual acting alone, *or with respect to a group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate*, no contributions may be made, solicited or received and *no expenditures may be made, directly or indirectly, in aid of or in opposition to* the candidacy for nomination or election of *any* individual or any party or *referendum question, unless* (1) the candidate or chairman of the committee has filed a designation of a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds, or (2) the candidate has filed a certification in accordance with the provisions of section 9-604. *In the case of a political committee, the filing of the statement of organization by the chairman of such committee, in accordance with the provisions of section 9-605, shall constitute compliance with the provisions of this subsection.* [Emphasis added.]

9. General Statutes § 9-605, provides in pertinent part:

(b) *The registration statement shall include:* (1) The name and address of the committee; (2) a statement of the purpose of the committee; (3) the name and address of its campaign treasurer, and deputy campaign treasurer if applicable; *(4) the name, address and position of its chairman, and other principal officers if applicable;* (5) the name and address of the depository institution for its funds; (6) the name of each person, other than an individual, that is a member of the committee; (7) the name and party affiliation of each candidate whom the committee is supporting and the office or position sought by each candidate; (8) if the committee is supporting the entire ticket of any party, a statement to that effect and the name of the party; *(9) if the committee is supporting or opposing any referendum question, a brief statement identifying the substance of the question;* *(10) if the committee is established by a business entity or organization, the*

name of the entity or organization; (11) if the committee is established by an organization, whether it will receive its funds from the organization's treasury or from voluntary contributions; (12) if the committee files reports with the Federal Elections Commission or any out-of-state agency, a statement to that effect including the name of the agency; (13) a statement indicating whether the committee is established for a single primary, election or referendum or for ongoing political activities; (14) if the committee is established or controlled by a lobbyist, a statement to that effect and the name of the lobbyist; (15) the name and address of the person making the initial contribution or disbursement, if any, to the committee; and (16) any information that the State Elections Enforcement Commission requires to facilitate compliance with the provisions of this chapter or chapter 157. If no such initial contribution or disbursement has been made at the time of the filing of such statement, the campaign treasurer of the committee shall, not later than forty-eight hours after receipt of such contribution or disbursement, file a report with the State Elections Enforcement Commission. The report shall be in the same form as statements filed under section 9-608.

...

(d) A group of two or more individuals who have joined solely to promote the success or defeat of a referendum question shall not be required to file as a political committee, make such designations in accordance with subsections (a) and (b) of this section or file statements pursuant to section 9-608, ***if the group does not receive or expend in excess of one thousand dollars for the entire campaign. If the group receives funds or makes or incurs expenditures exceeding one thousand dollars in the aggregate, the group shall complete the statement of organization and file as a political committee not later than three business days thereafter.*** The group shall provide the designated campaign treasurer with all information required for completion of the statements for filing as required by section 9-608. [Emphasis added.]

10. The Commission finds that on or about June 8, 2011 and June 15, 2011, the Respondent made expenditures for the publishing of three full-paged print advertisements in *The Shopper's Guide*, as detailed in paragraph 5 through 7 above, advocating the passage of the June 23, 2011 Putnam referendum.

11. The Commission finds that on or about June 8, 2011 and June 15, 2011 the Respondent made expenditures totaling between \$6,500 to \$7,000 to a media consultant for the design of the three advertisements that are the subject of this complaint.
12. The Commission finds, as detailed herein, that the total expenditures made for the advertisements in question is approximately \$7,500, which includes the expenditures detailed in paragraphs 10 and 11 above. The Commission further finds that no registration was filed with the Putnam Town Clerk by Respondent, the YMCA of Greater Hartford, or its agents, reflecting its expenditures promoting the referendum that are subject of this complaint and detailed herein.
13. The Commission concludes that Respondent, as agent for the YMCA of Greater Hartford, violated General Statutes §§ 9-602 and 9-605 by making expenditures in excess of \$1,000 in support of a June 23, 2011 referendum in the Town of Putnam and by failing to file a statement of organization no later than three business days after such expenditures.
14. In regards to the attribution, General Statutes § 9-621, provides in pertinent part:

(c) No business entity, organization, association, committee, or group of two or more individuals who have joined solely to promote the success or defeat of a referendum question shall make or incur any expenditure for any written, typed or other printed communication which promotes the success or defeat of any referendum question unless such communication bears upon its face the words "paid for by" and the following: (1) In the case of a business entity, organization or association, the name of the business entity, organization or association and the name of its chief executive officer or equivalent (2) in the case of a political committee, the name of the committee and the name of its campaign treasurer; (3) in the case of a party committee, the name of the committee; or (4) in the case of such a group of two or more individuals, the name of the group and the name and address of its agent. [Emphasis added.]
15. The Commission finds that the three advertisements, as detailed in paragraphs 5 through 7 above, advocated support for the June 23, 2011 referendum in the Town of Putnam.
16. The Commission further finds that the three advertisements that are the subject of this complaint lack the attribution required by General Statutes § 9-621 (c). The YMCA of Greater Hartford as a business entity advocating a position on a referendum was required to

include the attribution, "Paid for by the YMCA of Greater Hartford, James Morton, President and CEO," pursuant to § 9-621 (c).

17. The Commission concludes that the Respondent, as agent for the YMCA of Greater Hartford, violated General Statutes § 9-621 (c) with respect to each of the aforementioned advertisements, which lacked proper attributions.
18. 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 after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
19. 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.
20. 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.
21. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent shall pay a civil penalty of five hundred dollars (\$500.00) to the Commission on or before September 21, 2011 and that the Respondent shall henceforth strictly comply with the requirements of Connecticut General Statutes §§ 9-602 (a), 9-605 (b) & (d), and 9-621 (c).

IT IS HEREBY FURTHER ORDERED that the Respondent shall file, or cause to be filed within fourteen days from the adoption of this agreement, the registration and financial disclosure statements necessary to accurately reflect the YMCA of Greater Hartford's expenditures to promote the June 23, 2011 referendum in the Town of Putnam.

The Respondents

For the State of Connecticut

BY: James Morton Dated: 09/13/11

BY: Shannon Clark Kief Dated: 9/15/11

James O'S. Morton
James O'S. Morton
President and CEO
YMCA of Greater Hartford
241 Trumbull Street
Hartford, CT 06103

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

Adopted this 21st day of September, 2011 at Hartford, Connecticut by a vote of the Commission.

Stephen F. Cashman
Stephen F. Cashman, Chairperson
By Order of the Commission