

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by a SEEC Elections Officer

RESPONDENT:
Michael E. Dougherty
24 Shore Drive
Woodstock, CT 06281

File Nos. 2011-159NF
and 2011-167NF

FINAL DECISION

The above-captioned matters were heard as a contested case on February 16, 2012, 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, Michael E. Dougherty, appeared on his own behalf. 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 11, 2011 and December 5, 2011, respectively. *State's Exhibit 11.*
2. Stephen F. Cashman was designated as Hearing Officer on August 24, 2011 by order of the State Elections Enforcement Commission. A Notice of Hearing was sent to the Respondent on January 26, 2012. *State's Exhibit 1.*
3. The Woodstock Republican Town Committee has been registered as a party committee with the State Elections Enforcement Commission from August 13, 1974 to the present. *State's Exhibit 11.* The Respondent has served as treasurer of the Woodstock Republican Town Committee from April 11, 2011 to the present. *State's Exhibits 3 and 11.*
4. General Statutes § 9-608 provides, in relevant part, as follows:

"(a)(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.”

...

(b) Exemption from filing requirements. **The statements required to be filed under subsection (a) of this section** and subdivisions (2) and (3) of subsection (e) of this section, **shall not be required to be filed by: . . . (3) a party or political committee organized for ongoing political activities until such committee receives or expends an amount in excess of one thousand dollars for the calendar year** except the statements required to be filed on the tenth calendar day in the month of January and on the seventh day preceding any election shall be so filed.

...

(c) (1) **Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to: . . . (B) an itemized accounting of each expenditure,** if any, including the full name and complete address of each payee, including secondary payees whenever the primary or principal payee is known to include charges which the primary payee has already paid or will pay directly to another person, vendor or entity, the amount and the purpose of the expenditure, the candidate supported or opposed by the expenditure, whether the expenditure is made independently of the candidate supported or is an in-kind contribution to the candidate, and a statement of the balance on hand or deficit, as the case may be;

(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 11, 2011, the Respondent was required to file a financial disclosure statement on behalf of the Woodstock Republican Town Committee per General Statutes § 9-608 (a) (1) (A), but did not. *State’s Exhibits 11 and 12.*

7. On October 21, 2011, Ms. Staniewicz sent a letter to the Respondent, by certified mail, return receipt requested, stating that the Commission had not received a financial disclosure statement from him that was due on October 11, 2011. ***State's Exhibit 5.*** The letter provided that the Respondent must file the statement and submit a payment of \$100 within 21 days or else he would be subject to a civil penalty between \$200 and \$2,000 and a potential public hearing. ***State's Exhibit 5.***
8. After 21 days had expired, and no October quarterly statement was filed, Ms. Staniewicz referred the matter to the Commission's Enforcement Unit. ***State's Exhibit 11.*** 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 December 22, 2011, Paralegal Specialist Evelyn Gratacos sent a letter to the Respondent, stating that the Commission had still not received a financial disclosure statement from him that was due on October 11, 2011. ***State's Exhibit 7.*** The letter explained that the Respondent was subject to a civil penalty between \$200 and \$2,000 but advised that he could avoid further enforcement of the matter if he submitted the statement and a payment of \$200 by January 9, 2012. ***State's Exhibit 7.***
10. On November 14, 2011, Ms. Staniewicz sent a letter to the Respondent, by certified mail, return receipt requested, stating that the Commission had not received an itemized financial disclosure statement from him that was due on November 1, 2011 (the seventh day preceding the election filing) and requested that he file the statement within 21 days. ***State's Exhibit 6.*** The letter stated that the Commission would not impose the statutory \$100 fee at that time due to the exigent circumstances created by Storm Alfred. ***State's Exhibit 6.*** The letter also warned that if the Respondent did not submit the statement within 21 days, the Commission may order a public hearing and he could be subject to a civil penalty of up to \$2,000. ***State's Exhibit 6.***
11. After 21 days had expired, and no disclosure statement for the seventh day preceding the November 2011 election was filed, Ms. Staniewicz referred the matter to the Commission's Enforcement Unit. ***State's Exhibit 11.*** 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. On December 23, 2011, Paralegal Specialist Evelyn Gratacos sent a letter to the Respondent, stating that the Commission had still not received a financial disclosure statement from him that was due on November 1, 2011. ***State's Exhibit 8.*** The letter explained that the Respondent was subject to a civil penalty between \$200 and \$2,000 but advised that he could avoid further enforcement of the matter if he submitted the statement and a payment of \$200 by January 10, 2012. ***State's Exhibit 8.***

13. On February 16, 2012, the date of the hearing, the Respondent submitted the first two pages of a SEEC Form 20, a seventeen page itemized campaign finance disclosure statement, for the October 10 filing, covering the period from July 1, 2011 through September 30, 2011. ***Respondent's Exhibit A and Testimony of Staniewicz.*** The filing's summary page reflects that the committee had expenditures in the amount of \$36.21 during the period covered. ***Respondent's Exhibit A.*** There is no itemized disclosure of these expenditures contained in the statement. ***Respondent's Exhibit A.***
14. On February 16, 2012, the date of the hearing, the Respondent submitted the first two pages of a SEEC Form 20, a seventeen page itemized campaign finance disclosure statement, for the seventh day preceding the election filing, covering the period from October 1, 2011 through October 25, 2011. ***Respondent's Exhibit B and Testimony of Staniewicz.*** The filing's summary page reflects that the committee had expenditures in the amount of \$1,658.68 during the period covered by the statement. ***Respondent's Exhibit B.*** There is no itemized disclosure of these expenditures contained in the statement. ***Respondent's Exhibit B.***
15. It is concluded that the Respondent violated General Statutes § 9-608 by failing to timely file a financial disclosure statements for the October 2011 quarterly and seventh day preceding the election filings and by failing to file the statements within the 21 days after Ms. Staniewicz's notices.
16. Evidence was presented that Commission staff was persistent and rigorous in its efforts to contact the Respondent about the delinquent filings and payments. ***State's Exhibits 5, 6, 7, 8, 9, and 10.***
17. 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).
18. 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."
19. In consideration of the factors listed in § 9-7b-48, Regs., Conn. State Agencies, in particular that (1) the State presented no evidence that the Respondent had a history of prior campaign finance violations, and (2) while incomplete, the Respondent had submitted the filings by the morning of the hearing at which he appeared, it was recommended that the Commission assess a civil penalty against the Respondent in the amount of the amount of \$200.00 for each violation of General Statutes § 9-608, for a total of \$400.00, the minimum required by law.

20. Given that the two statements at issue in the hearing were incomplete because they disclosed expenditures that required an itemized reporting of such activity but did not include such itemization, it was also recommended that the Commission require the Respondent to amend these filings so that full and complete statements are submitted, including the itemized disclosure of all expenditures for the relevant period.

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

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall pay a civil penalty in the amount of \$400.00, 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).

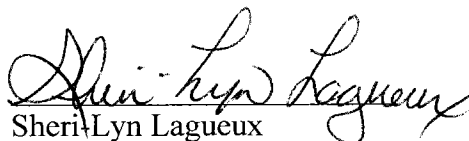
IT IS HEREBY ORDERED THAT the Respondent shall, within 30 days of notice of this decision, amend the financial disclosure statements that were submitted for the October 2011 quarterly and seventh day preceding the November 2011 election filings so as to include the itemization of all financial activity during the respective periods, pursuant to General Statutes § 9-7b (a) (3) (F).

Adopted this 23rd day of May 2012 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 Michael E. Dougherty, 24 Shore Drive, Woodstock, CT 06281, via first-class mail on May 23, 2012 with delivery confirmation tracking and certified mail, return receipt requested.



Sheri Lyn Lagueux
Clerk of the Commission