

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by a SEEC Elections Officer

RESPONDENT:

Jonathan Kastner
35 Glen Grove Road
Deep River, CT 06417

File No. 2011-164NF

FINAL DECISION

The above-captioned matter was 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, Jonathan Kastner, 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 December 5, 2011. *State's Exhibit 8.*
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 Deep River Democratic Town Committee has been registered as a party committee with the State Elections Enforcement Commission from August 23, 1974 to the present. *State's Exhibit 8.* The Respondent has served as treasurer of the Deep River Democratic Town Committee from March 12, 2010 to the present. *State's Exhibits 3 and 8.*
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 November 1, 2011, the seventh day preceding the election, the Respondent was required to file a financial disclosure statement on behalf of the Deep River Democratic Town Committee per General Statutes § 9-608 (a) (1) (B) (ii), but did not. *State’s Exhibits 8 and 9.*
7. 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 and requested that he file the statement within 21 days. *State’s Exhibit 5.* 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 5.* 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 5.*
8. 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).
9. On December 23, 2011, Paralegal Specialist Evelyn Gratacos sent a letter to the Respondent, stating that the Commission had still not received an itemized financial disclosure statement from him that was due on November 1, 2011. *State’s Exhibit 6.* The letter explained that the Respondent was subject to a civil penalty between \$200 and \$2,000 but that he could avoid further enforcement of the matter if he submitted the statement and a specified payment by January 10, 2012. *State’s Exhibit 6.*

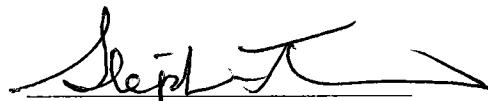
10. As of January 25, 2012, the day before the Notice of Hearing was sent to the Respondent, the Respondent had not submitted the seventh day preceding the election filing. *State's Exhibits 1 and 8.*
11. On February 14, 2012, the Respondent submitted the seventh day preceding the election filing, covering the period from October 1, 2011 through October 25, 2011. *State's Exhibit 10.* The filing reflects that the committee had no receipts or expenditures during the period covered by the statement. *State's Exhibit 10.*
12. It is concluded that the Respondent violated General Statutes § 9-608 by failing to timely file a financial disclosure statement on the seventh day preceding the November 2011 election and by failing to file the statement within the 21 days after Ms. Staniewicz's notice.
13. Evidence was presented that Commission staff was persistent and rigorous in its efforts to contact the Respondent about the delinquent filing. *State's Exhibits 5, 6, 7, and 8.*
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 . . . 9-608 . . . 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."
16. In consideration of the factors listed in § 9-7b-48, Regs., Conn. State Agencies, in particular that (1) as of the date of the hearing, the Respondent had submitted the filing, and (2) the committee did not spend or receive any money during the period covered by the filing and therefore any public harm suffered by lack of disclosure was minimal, it was recommended that the Commission assess a civil penalty against the Respondent in the amount of \$200.00 for his violation of General Statutes § 9-608, the minimum required by law.

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 \$200.00, payable to the State Elections Enforcement Commission, within 30 days of notice of this decision, for violation of General Statutes § 9-608, pursuant to General Statutes § 9-7b (a) (2).

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 Jonathan Kastner, 35 Glen Grove Road, Deep River, CT 06417, 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