

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Lesia C. Peters, Woodbury

File No. 2012-003

AGREEMENT CONTAINING CONSENT ORDER

This agreement, by and between Nancy A. Mackey, of the Town of Woodbury, County of Litchfield, 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 that *Stomski/Perkinson '11*, a political slate committee supporting municipal candidates Gerald D. Stomski and Barbara K. Perkinson, and the Woodbury Republican Town Committee (WRTC), violated campaign finance laws pertaining to the November 8, 2011 municipal election in the Town of Woodbury.
2. Specifically, Complainant alleged that:
 - (1) A contribution by T.J. Brennan exceeded the maximum limit of \$750.00 from an individual to a political slate committee pursuant to General Statutes § 9-612;
 - (2) A contribution by Susan Scott exceeded the maximum limit of \$750.00 from an individual to a political slate committee pursuant to § 9-612;
 - (3) *Stomski/Perkinson '11* failed to disclose an in-kind contribution of 2009 campaign signs, and no expenditure was reported for the purchase of stickers to modify such signs for reuse by *Stomski/Perkinson '11*;
 - (4) As of November 1, 2011, neither the WRTC nor *Stomski/Perkinson '11* had reported any expenditures for mailings, advertising, and lawn signs that were made by the committees on the behalf of Linda Carlson as candidate for Woodbury Town Clerk; and,
 - (5) The property owner of office space used as campaign headquarters by the WRTC and *Stomski Perkinson '11* for the November 2011 election contributed that space "free of charge" to both committees thereby making illegal business entity contributions to those committees pursuant to § 9-613.

3. This agreement is limited to Respondent. Any other agreements pertaining to this complaint and additional Respondents are treated under separate documents. Additionally, the Commission notes that Complainant filed this complaint along with companion complaints in File Nos. 2012-001, 2012-003 and 2012-004, which are being treated as separate matters. The Respondent, Ms. Scott, Mr. Brennan and Ms. Carlson have no prior history with the Commission.
4. By way of background, *Stomski/Perkinson '11* was registered as a political slate committee to support Mr. Stomski, for Woodbury First Selectman, and Ms. Perkinson, for Woodbury Selectman at the November 8, 2011 election. Louis DeLuca was designated as Chairman and Respondent as Treasurer of *Stomski/Perkinson '11*. Mr. DeLuca and Respondent filed the *Stomski/Perkinson '11* registration statement April 12, 2011 with the Woodbury Town Clerk's office. At all times relevant to this complaint, Respondent was also treasurer of the WRTC.
5. General Statutes §9-601, provides in pertinent part:
 - (a) As used in this chapter and chapter 157, "contribution" means:
 - (1) ***Any gift, subscription, loan, advance, payment or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person or for the purpose of aiding or promoting the success or defeat of any referendum question or on behalf of any political party; ...***
6. General Statutes §9-608, provides in pertinent part:

...

 - (c) (1) ***Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to: (A) An itemized accounting of each contribution, if any, including the full name and complete address of each contributor and the amount of the contribution; (B) in the case of anonymous contributions, the total amount received and the denomination of the bills; (C) 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; **(D) an itemized accounting of each expense incurred but not paid**, provided if the expense is incurred by the use of a credit card, the accounting shall include secondary payees, and the amount owed to each such payee;
[Emphasis added.]

7. General Statutes §9-612, provides in pertinent part:
 - (a) ***No individual shall make a contribution or contributions in any one calendar year in excess*** of five thousand dollars to the state central committee of any party, or for the benefit of such committee pursuant to its authorization or request' or one thousand dollars to a town committee of any political party, or for the benefit of such committee or legislative leadership committee, or ***seven hundred fifty dollars to any other political committee other than*** (1) a political committee formed solely to aid or promote the success or defeat of a referendum question, (2) an exploratory committee, (3) a political committee established by an organization, or for the benefit of such committee pursuant to its authorization or request, or (4) a political town committee formed by a slate of candidates in a primary for the office of justice of the peace in the same town. ... [Emphasis added.]

8. General Statutes § 9-613, provides in pertinent part:
 - (a) ***No business entity shall make any contributions or expenditures to, or for the benefit of, any candidate's campaign for election to any public office*** or position subject to this chapter or for nomination at a primary for any such office or position, or to promote the defeat of any candidate for any such office or position. ***No business entity shall make any other contributions or expenditures to promote the success or defeat of any political party***, except as provided in subsection (b) of this section. ... [Emphasis added.]

9. General Statutes § 9-622, provides in pertinent part:

The following persons shall be guilty of illegal practices...

(10) ***Any person who solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter; ...***

[Emphasis added.]

10. Upon investigation the Commission finds that on November 1, 2011, Respondent filed an *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20) with the Woodbury Town Clerk on behalf of *Stomski/Perkinson '11*. The aforementioned financial statement disclosed an October 15, 2011 in-kind contribution from Mr. Brennan for food and services valued at \$1,000.00 for a fundraiser held by the committee.
11. The Commission concludes that Mr. Brennan, as an individual, was limited to a maximum contribution to *Stomski/Perkinson '11*, as a political committee, in the amount of \$750.00 pursuant to § 9-612 (a). Therefore, the Commission finds Mr. Brennan's in-kind contribution exceeded the statutory maximum individual contribution limit by \$250.00, and the receipt by Respondent of an excessive contribution from Mr. Brennan was prohibited by General Statutes § 9-622 (10).
12. The Commission finds that Respondent on November 1, 2011 disclosed a contribution in the amount of \$1,000.00 from spouses "*Susan & Jim*" Scott on an SEEC Form 20 filed with the Woodbury Town Clerk for *Stomski/Perkinson '11*. Further, the Commission finds that the contribution was signed by Susan Scott and made by joint checking account. Finally, the Commission concludes that pursuant to General Statutes § 9-606 (b) a contribution is allocated to the signer of a check when drawn on a joint checking account as in this instance. Therefore, the Commission finds that the entire \$1,000.00 amount of the check should have been allocated to Ms. Scott as a contribution to *Stomski/Perkinson '11*, as the only signer.
13. The Commission concludes that Ms. Scott, as an individual, was limited a maximum contribution to *Stomski/Perkinson '11*, as a political slate committee, in the amount of \$750.00 pursuant to General Statutes § 9-612 (a) . Therefore, the Commission finds Ms. Scott's \$1,000.00 contribution exceeded the statutory maximum individual contribution limit by \$250.00, and the receipt by Respondent of an excessive contribution from Ms. Scott was prohibited by § 9-622 (10).
14. The Commission concludes, for the reasons detailed in paragraphs 10 through 13 above, that Respondent, on two occasions, violated General Statutes §§ 9-612 and 9-622 (10) by accepting excessive contributions on behalf of *Stomski/Perkinson '11* from Mr. Brennan and Susan Scott, each in the amount of \$1,000.00 as alleged in Allegations 1 and 2 above.

15. Respondent admits that 2009 campaign signs were stored by the WRTC and reused by Mr. Stomski and Ms. Perkinson as candidates in the November 2011 municipal election in the Town of Woodbury. Further, the Commission finds that *Stomski/Perkinson '11* was billed in the amount of \$75.00 for stickers that were used to update 2009 signs for the use in the 2011 election campaign as alleged in Allegation Three above.
16. Respondent asserts that the purchase of stickers in the amount of \$75.00 for the reuse of campaign signs, as detailed in paragraph 15 above, was *not* disclosed by her on behalf of the *Stomski/Perkinson '11* political slate committee because the bill for the stickers was received *after* the termination of the committee.¹ Respondent concedes that no valuation was made of the 2009 signs in order for *Stomski/Perkinson '11* to report an in-kind value received from the WRTC who stored and then contributed the signs to *Stomski/Perkinson '11*.
17. General Statutes § 9-608 (c) (1) (D) provides each financial statement must include “an itemized accounting of each expense incurred but not paid.” The Commission finds that the purchase of stickers as detailed herein as an expense incurred but not paid by *Stomski/Perkinson '11* and therefore should have been reported by Respondent.
18. The Commission concludes therefore, for reasons detailed in paragraphs 16 and 17 above, that Respondent violated § 9-608 (c) (1) (D) by failing to disclose the \$75.00 cost incurred but not paid by *Stomski/Perkinson '11* for stickers used to modify 2009 campaign signs for the November 8, 2011 election.
19. General Statutes §9-601 (a) (1) provides that the “contribution” means “... anything of value, made for the purpose of influencing the nomination for election, or election, of any person.” The Commission finds that the WRTC provided an *in-kind contribution* of old campaign signs to *Stomski/Perkinson '11*. The Commission finds that the provision of signs by WRTC for reuse by *Stomski/Perkinson '11* should have been reported by Respondent and that the value of signs provided by the WRTC to *Stomski/Perkinson '11* should have been disclosed.
20. The Commission concludes therefore, for the reasons detailed immediately above, that Respondent violated § 9-608 (c) (1) (C) by failing to disclose an in-kind contribution from the WRTC to *Stomski/Perkinson '11* of 2009 campaign signs for reuse in the November 8, 2011 election.

¹ Upon investigation, it was revealed that this bill was ultimately paid by for by the WRTC.

21. Allegation 4 pertains to alleged failures by the WRTC or *Stomski/Perkinson '11* to report expenditures to support candidate Linda Carlson. The Commission finds that Respondent, as treasurer of *Stomski/Perkinson '11*, made expenditures to support Ms. Carlson for election at the November 2011 election. The Commission further finds that Ms. Carlson attempted to designate *Stomski/Perkinson '11* her funding vehicle on July 22, 2011 but did not accurately complete her *Certification of Exemption From Forming a Candidate Committee* (SEEC Form 1B) that was filed with the Woodbury Town Clerk's office.²
22. Upon investigation, the Commission finds that a \$300.00 expenditure for signs supporting Ms. Carlson was paid for by *Stomski/Perkinson '11* on October 26, 2011 and subsequently reported after this complaint on the *Stomski/Perkinson '11* January 10, 2012 filing. The Commission further finds that the aforementioned expenditure pursuant to General Statutes § 9-608 was reported by Respondent on January 3, 2012 for the period covering October 26, 2011 through December 31, 2011 that was due for the January 10, 2012 filing.
23. The Commission concludes therefore, for the reasons detailed in paragraphs 21 and 22 above, that Respondent as required by General Statutes § 9-608 disclosed an October 26, 2011 expenditure in the amount of \$300.00 for signs supporting Ms. Carlson at the November 8, 2011 election in the Town of Woodbury. The Commission therefore dismisses Allegation 4.³
24. Complainant alleged, as detailed in Allegation 5 above, that *Stomski/Perkinson '11* and the WRTC received business entity contributions that were prohibited by General Statutes § 9-613 based on their use, allegedly "free of charge," of office space from a business for campaign headquarters prior to the November 8, 2011 election.
25. Upon investigation, the Respondent asserts that owner of the property offered *Stomski/Perkinson '11* use of the property in exchange for the payment of utilities because the building was vacant prior to its use and had been so "for a long while." Further, according to Respondent, the owner of the office space sent the utility bill to the WRTC "in error," in that it was the *Stomski/Perkinson '11* that used the space, and paid the utilities for such use.

² Complainant specifically raised the issue of Ms. Carlson's failure to properly designate a candidate committee in a companion complaint by in File No. 2012-002 that is separate from this matter.

³ The Commission notes that had Ms. Carlson properly designated *Stomski/Perkinson '11* as her political slate committee on July 22nd there would have been no obligation on that committee to independently break-out expenditures in support of its own candidates pursuant to § 9-608 and that the committee otherwise properly reported the \$300.00 expenditure for campaign signs supporting Ms. Carlson.

26. The Commission finds that Respondent disclosed on a January 17, 2012 amendment to *Stomski/Perkinson '11's* SEEC Form 20 an expenditure for utilities in the amount of \$333.27. The Commission further finds that this is consistent with Respondent's explanation for the use of office space by *Stomski/Perkinson '11* as detailed above. While the Commission notes that the aforementioned disclosure came *after* the filing of this complaint, the Commission nevertheless finds insufficient evidence to contradict Respondent's assertions pertaining to the use of office space by *Stomski/Perkinson '11*.
27. The Commission concludes, for reasons detailed in paragraphs 24 through 26 above, that there is insufficient evidence to establish that either *Stomski/Perkinson '11*, or the WRTC, received a prohibited business entity contribution pursuant to General Statutes §§ 9-613 and 9-622 (10) for use of office space as campaign headquarters for the November 8, 2011 election, and therefore the Commission dismisses Allegation 5.
28. 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.
29. 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.
30. 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.
31. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her pertaining to this matter.

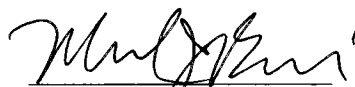
ORDER

IT IS HEREBY ORDERED that the Respondent shall pay a civil penalty of ~~three~~ ^{two} hundred dollars ~~(\$300.00)~~ on or before April 17, 2013. (NAM) was

IT IS HEREBY FURTHER ORDERED that the Respondent shall henceforth strictly comply with the requirements of General Statutes §§ 9-608, 9-612 and 9-622.

Dated: 4/16/13

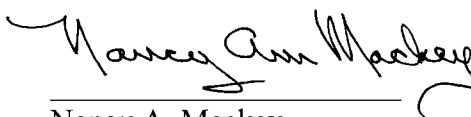
For the State of Connecticut,
BY:



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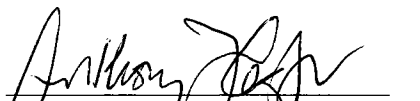
Dated: 4/13/2013

The Respondent,
BY:



Nancy A. Mackey
55 Woodbury Hill
Woodbury, Connecticut

Adopted this 17th day of April, 2013, at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission