

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re Audit Report of “*Jim Miron for Senate*”

File No. 2012-051

AGREEMENT CONTAINING A CONSENT ORDER

The parties, David Fuller, hereinafter referred to as “Respondent,” and the undersigned authorized representative of the State Elections Enforcement Commission, enter into this agreement as authorized by Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance with those provisions, the parties agree that:

1. Respondent served as treasurer for the *Jim Miron for Senate* candidate committee in the 2010 election cycle.¹
2. The candidate committee was established by Jim Miron on May 29, 2010 to support his candidacy for the 21st district senate seat.² The candidate and treasurer executed an affidavit on June 12, 2010, signifying their intention to abide by the voluntary expenditure limits in order to participate in the Citizens’ Election Program.³ The committee applied for a grant from the Citizens’ Election Fund on October 8, 2010.⁴ On October 19, 2010, the committee received a grant from the Citizens’ Election Fund totaling \$88,395.⁵
3. The 21st senate district was one the districts randomly selected for review as part of the Commission’s audit for the 2010 election cycle. During the course of the audit, Commission staff examined all of the expenditures made by the Miron candidate committee as well as the backup documentation to support those expenditures.

¹ See SEEC Form 1 – Registration of Candidate Committee (*Jim Miron for State Senate*, May 29, 2010) (reflecting David P. Fuller’s appointment as treasurer for the Jim Miron candidate committee).

² *Id.*

³ See SEEC Form CEP 10 – Affidavit of Intent to Abide by Expenditure Limits and Other Citizens’ Election Program Requirements (*Jim Miron for State Senate*, June 12, 2010) (evinced intent to abide by all voluntary restrictions imposed on candidate committees participating in Citizens’ Election Program).

⁴ See SEEC Form CEP 15 – Citizens’ Election Program – Citizens’ Election Program Application for Public Grant Dollars (*Jim Miron for State Senate*, October 8, 2010) (initiating application for grant monies from Citizens’ Election Fund).

⁵ See SEEC Form 30 – Itemized Campaign Finance Disclosure Statement: 7th Day Preceding General Election – Amendment (*Jim Miron for State Senate*, October 28, 2010) (reflecting payment of grant monies from Citizens’ Election Fund to candidate committee).

4. The Commission's examination revealed that the treasurer had failed to maintain necessary documentation to support all of the expenditures made by the candidate committee and that the committee had entered into impermissible "contingency contracts" with service providers, in which payment to the provider would only occur if the committee received a grant from the Citizens' Election Fund.
5. General Statutes § 9-608 (c) (1) (C) requires a campaign treasurer to itemize each expenditure made by the committee on financial disclosure statements filed periodically with the Commission.⁶ To corroborate those expenditures, the treasurer must supply contemporaneous documentation of each expenditure.⁷
6. The general statutes require the campaign treasurer of a candidate committee to retain all financial documentation from the committee for at least four years from the date of the last report that the candidate committee was required to file.⁸
7. The legislature has vested the Commission with the authority to "inspect or audit at any reasonable time and upon reasonable notice the account or records of any campaign treasurer or principal campaign treasurer, as required by chapter 155 or 157[.]"⁹
8. After the initiation of this enforcement matter, Respondent told the Commission's investigator that he had created agreements for services provided during the course of the campaign after the initiation of the audit process. Respondent also acknowledged that he had signed the names of others on agreements provided to the Commission in response to the audit inquiry. Respondent explained that he signed the agreements to support the arrangements that the candidate had verbally agreed to with the service providers. Respondent stated that the candidate had negotiated the deals and that he, in his role as treasurer, had agreed with the terms of the agreements and formalized them.

⁶ See General Statutes § 9-608 (c)(1)(C) (directing campaign treasurer to provide "itemized accounting of each expenditure, if any, including the full name and complete address of each payee, . . . 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 . . .").

⁷ See General Statutes § 9-607 (f) (requiring treasurer to maintain "contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or other lawful purpose of the expenditure").

⁸ *Id.*

⁹ General Statutes § 9-7b (a) (5). In fact, The Commission also has the authority to subpoena documents and seek enforcement of its subpoenas at the Superior Court in Hartford. See General Statutes § 9-7b (a) (1).

9. Agreements between some of the contractors, including between the candidate committee and the treasurer, included language that made satisfaction of the contract contingent upon the committee receiving a grant from the Citizens' Election Fund.
10. The agreement between the Respondent and the candidate committee for his dual roles as "Deputy Campaign Manager and Treasurer" included a clause stating: "Fulfillment of agreement is contingent of the campaign's qualification for the CEP grant, or procurement of other funds. If CEP grant is not obtained, then the contractor is no longer obligated to this agreement."¹⁰
11. The Commission's regulations require all committees to execute a written contract for any services rendered valued at more than \$100 as well as to provide documentation showing what services were actually provided.¹¹
12. In addition to requiring written contracts for all service providers, the regulations governing the Citizens' Election Program prohibit entering into a contract that makes payment of the amount due under the contract subject to receipt of a grant from the Citizens' Election Fund. The regulation states, in relevant part:

Participating candidates and the treasurers of such participating candidates shall not spend funds in the participating candidate's depository account for the following:

...

16. Expenditures incurred but not paid for which payment of any portion of the outstanding liability is made contingent on the participating candidate committee's receipt of a grant from the Citizens' Election Fund;¹²

13. According to Respondent, the success or failure of the committee to procure a public financing grant would change the scope of the agreements. If the candidate committee was unable to get a grant from the Citizens' Election Fund and the committee's financial

¹⁰ Contractor Agreement between Dave Fuller and *Jim Miron for Senate Committee* (Dated October 25, 2010). Dave Fuller was identified as the "contractor" in the agreement, while the campaign committee was identified as "owner."

¹¹ See Regs., Conn. State Agencies § 9-607-1 (a) (1) and (2) (State Elections Enforcement Comm'n) (requiring executed contracts before any service is provided by contractors as well as "contemporaneous detailed documentation" for all expenditures incurred by committee).

¹² Regulations, Conn. State Agencies, § 9-706-2 (b) (16) (State Elections Enforcement Comm'n) (prohibiting contracts that make payment contingent upon grant receipt).

resources were limited, they would have to run a lean campaign. Conversely, if they received the grant, the nature of the campaign and duties would change dramatically, and the campaign's budget would be less limited. Respondent explained that depending on the availability of funds, these agreements would be modified to reflect the changing duties and financial situation.

14. The regulations adopted by the Commission and approved by the General Assembly specifically prohibit these types of contingent contracts whose performance turn on the procurement of a grant from the Citizens' Election Fund.

15. As enumerated in § 9-7b-48 of the Regulations of Connecticut State Agencies:

In its determination of the amount of the civil penalty to be imposed, the Commission shall consider, among other mitigating or aggravating circumstances:

- (1) the gravity of the act or omission;
- (2) the amount necessary to insure immediate and continued compliance;
- (3) the previous history of similar acts or omissions; and
- (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.¹³

16. Respondent admits all jurisdictional facts and agree that this Agreement and Order shall have the same force and effect as a final decision and order entered into after a full hearing and shall become final when adopted by the Commission.

17. 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.

¹³ Regs., Conn. State Agencies, § 9-7b-48 (State Elections Enforcement Comm'n).

18. It is understood and agreed by the parties to this Agreement that the Commission will consider this Agreement at its next meeting and, if the Commission rejects it, the Agreement will be withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if one becomes necessary.

ORDER

IT IS HERERY ORDERED THAT Respondent shall pay a civil penalty of \$400 for failing to maintain proper documentation to support expenditures as required under General Statutes §9-608 and shall henceforth comply strictly with the requirements of the regulations and statutes related to the Citizens' Election Program and Connecticut's campaign finance regime.

The Respondent

For the State of Connecticut

By:



David P. Fuller
48 Sunnybank Ave.
Stratford, CT 06614

Dated:

9/22/15

By:



Michael J. Brandi, Esq.
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT 06106

Dated:

9/25/15

Adopted this 20 day of OCT 2015 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission

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SEP 24 2015

ENFORCEMENT COMMISSION