

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re Audit Report of “*Kearney 2011*”

File No. 2012-068

FINDINGS & CONCLUSIONS

The State Elections Enforcement Commission initiated this investigation based on findings in an audit conducted of the *Kearney 2011* candidate committee by the commission’s Campaign Disclosure and Audit unit. The results of that audit indicated that the treasurer, Andrew V. Bivens, hereinafter referred to as “Respondent,” had allowed another individual, who was not a treasurer of the committee, to make expenditures on behalf of the candidate committee. Attempts to locate Respondent to resolve this matter have proved futile. In light of those circumstances, the Commission makes the following findings and conclusions:

1. Respondent served as treasurer for the *Kearney 2011* candidate committee in a 2011 special election for the 126th General Assembly seat.¹
2. The candidate and treasurer executed an affidavit signifying their intention not to follow the voluntary expenditure limits required for candidate committees participating in the Citizens’ Election Program.² As such, *Kearney 2011* was a nonparticipating candidate committee.³
3. The 126th General Assembly district in the 2011 special election was selected as part of the random audit process conducted by the Commission’s Compliance and Audit Unit. During the course of the audit, Commission staff examined all of the expenditures made by the *Kearney* candidate committee as well as the backup documentation to support those expenditures.
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 another individual other than the treasurer had executed checks on behalf of the committee.

¹ See SEEC Form 1 – Registration of Candidate Committee (*Kearney 2011*, Jan. 29, 2011) (Rec’d Feb. 1, 2011) (reflecting establishment of candidate committee by Verna Kearney and appointment of Andre V. Bivens as treasurer).

² See SEEC Form CEP 11 – Affidavit of Intent Not to Abide by Expenditure Limits (*Kearney 2011*, February 7, 2011) (Rec’d February 16, 2011) (evincing intent not to abide by voluntary restrictions imposed on candidate committees participating in Citizens’ Election Program and thus opting out of Citizens’ Election Program).

³ See General Statutes § 9-703 (b) (designating candidate committee that opts not to abide by expenditure limits as “nonparticipating committee”).

5. General Statutes § 9-606 (a) requires a treasurer, among other things, to make and report all expenditures of the committee and to keep internal records of each entry made on statements filed with the Commission.⁴ To corroborate expenditures, the treasurer must supply contemporaneous documentation of each expenditure.⁵ 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.⁶
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.⁷
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[.]"⁸
8. Respondent did not provide documentation to the Commission during the course of the audit, including contracts to support payments made to committee workers that exceeded \$100.
9. General Statutes § 9-607 requires the treasurer to authorize all expenditures incurred by the committee. Only the campaign treasurer may pay for the obligations of the committee, which must be authorized by the treasurer and paid only by a check drawn on the depository institution or via a debit card or credit card.⁹

⁴ See General Statutes § 9-606 (a) (laying out responsibilities of committee treasurers under Connecticut campaign finance statutes).

⁵ 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").

⁶ 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).

⁷ See General Statutes § 9-607 (f) (requiring treasurer to retain documents for four years from date of last, required report filed by committee).

⁸ 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 See General Statutes §§ 9-607 (a), (d) and (e).

10. In this case, the campaign manager, who was not named as a deputy treasurer for the committee, made expenditures on behalf of the committee.
11. By failing to execute the checks to pay for expenditures of the committee, Respondent likely violated General Statutes §§ 9-606 and 9-607.
12. Commission staff has attempted to locate Respondent to resolve this matter, but all attempts to contact him, including via certified mail, telephone, and electronic mail, have been unsuccessful.¹⁰
13. According to evidence gathered by Commission staff, Respondent likely has moved to New York and is no longer an elector in the State of Connecticut.
14. The Commission will dismiss this matter without prejudice, allowing the Commission to reopen this matter should Respondent attempt to serve as treasurer of a committee registered in the State of Connecticut or otherwise become available in the state subject to the Commission's jurisdiction.

ORDER

The following order is recommended on the basis of the aforementioned findings:

That the Commission will dismiss this matter without prejudice.

Adopted this 9th day of March, 2016, at Hartford, Connecticut, by vote of the Commission.

¹⁰ See Letter from James M. Talbert-Slagle to Andrew V. Bivens (Sept. 23, 2015) (Sent to Auburn, NY address); Letter from James M. Talbert-Slagle to Andrew V. Bivens (Nov. 25, 2015) (Sent to Bridgeport, CT address); Certified Letter from James M. Talbert-Slagle to Andrew V. Bivens (Nov. 10, 2015) (Sent to Auburn, NY address) (Returned as unclaimed on Nov. 30, 2015); Certified Letter from James M. Talbert-Slagle to Andrew V. Bivens (Jan. 15, 2016) (Sent to Bridgeport, CT address) (Returned as unclaimed on Feb. 17, 2016); Email message from James M. Talbert-Slagle to andrewbivens@aol.com (Jan. 28, 2016) (explaining that Commission had open case against him); Email message from James M. Talbert-Slagle to andrewbivens@aol.com (Sept. 22, 2015) (explaining that Commission had open case against him). In addition, counsel also left numerous messages at telephone numbers associated with Respondent, including cellular and land-based, as well as at telephone numbers likely associated with Respondent's relatives; none of the messages were returned.



Anthony J. Castagno, Chairman
By Order of the Commission