

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by John Mallozzi
Stamford

File No. 2012-151a

CONSENT ORDER

The parties, Philip Balestriere, of the City of Stamford, State of Connecticut, hereinafter referred to as the 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. Complainant John Mallozzi filed this complaint with the Commission alleging that Respondent's candidate committee had improperly paid the catering business that the Respondent owned for services related to a fund-raising event.¹
2. Philip Balestriere registered a candidate committee with the Commission on June 1, 2012, establishing a committee to run for the 148th General Assembly seat in the 2012 election. *See* SEEC Form 1 – Registration by Candidate (*Balestriere Phil for State Rep.*, Rec'd June 5, 2012) (establishing Balestriere candidate committee and naming Cort Wrotnowski as committee treasurer).
3. On July 29, 2012, Respondent's candidate committee had a fundraising event for which the candidate's business, Clambake Connection, LLC, supplied food. Shortly before the fundraising event, Respondent contacted the Commission's compliance unit to discuss whether he could hire his catering business to provide food for an event sponsored by his candidate committee, especially since he intended to participate in the Citizens' Election Program.
4. Over the course of several discussions with Commission staff, Respondent was told that a qualified candidate committee could not make payments to businesses in which the candidate had a greater than 5 percent ownership. Jennifer Montgomery, a Commission staff attorney in the compliance unit, informed Respondent that if he decided to participate in the Citizens' Elections Program and if his committee was awarded a grant, none of that money could be used to make a payment to a business in which he owned more than 5 percent.

¹ The complaint also raised two other allegations, namely, that the committee had made improper purchases of electronic equipment and that the committee had exceeded the meal-expenditure limits imposed on participating candidates. Those two allegations were not found to have merit. Only the issue surrounding the payments to the candidate's business from his candidate committee will be addressed in depth in the order.

5. Respondent filed the paperwork confirming his intent to participate in the Citizens' Election Program the following month. *See* SEEC Form CEP 10 – Affidavit of Intent to Abide by Expenditure Limits and Other Citizens' Election Program Requirements (*Balestriere Phil for State Rep.*, August 30, 2012).
6. On October 3, 2012, Respondent's candidate committee paid Clambake Connection, LLC, a total of \$3,693.40. *See* SEEC Form 30 – First Weekly Supplemental Filing (*Balestriere Phil for State Rep.*, October 11, 2012) (reflecting payment to Clambake Connection for \$3,693.40). That payment came just days after the candidate committee received \$26,900 in grant funds from the Citizens' Elections Fund on October 1, 2012. *See* SEEC Form 30 – First Weekly Supplement Filing General Election Amended (*Balestriere Phil for State Rep.*, December 12, 2012) (reflecting payment of grant monies to candidate committee in October 2012).
7. An additional review of the campaign disclosure reports from *Balestriere Phil for State Rep.* showed that the committee made additional payments to Clambake Connections after the July 29, 2012 fundraising event. On November 12, 2012, the committee paid \$152.40 to Clambake Connection for "taxes to state" which the committee coded as related to a fundraising event (FNDR). *See* SEEC Form 30 – Itemized Campaign Finance Disclosure Statement (*Balestriere Phil for State Rep.*, January 10, 2013) (reflecting payment to Clambake Connection for \$152.40 for "taxes to state"). On November 23, 2012, the committee paid \$190.37 to Clambake Connection for "Meals and linens for volunteers, door knocking day." The committee coded the purpose for that expenditure as miscellaneous (MISC). *See* SEEC Form 30 – Itemized Campaign Finance Disclosure Statement (*Balestriere Phil for State Rep.*, January 10, 2013) (reflecting payment to Clambake Connection for \$190.37 for "meals and linens").
8. Qualified candidate committees may not make payments to the candidates, their family members, or their business. Regulation § 9-706-2 (b) (4) prohibits payments from a qualified candidate committee's depository account to businesses in which the candidate has a 5 percent or greater ownership stake. *See* Regulations of Conn. State Agencies § 9-706-2 (b) (4) (prohibiting "[p]ayments to any entity in which the participating candidate or the participating candidate's family members, as listed in Section 9-706-2(b)(3) of the Regulations of Connecticut State Agencies, has a 5% or greater ownership interest").
9. The recorded advice that Commission staff gave to the candidate related to paying his company for the catering service in July 2012 may have created ambiguity in the candidate's mind as to whether the candidate committee could use grant monies to satisfy a contract that was negotiated and the service delivered before the committee had applied for or received a CEF grant. Given that potential confusion, the Commission's prosecution of

this matter does not touch upon the propriety of the October payment of \$3,693.40 to Clambake Connection, other than to say that such arrangements are best avoided in the future.

10. In contrast, however, little confusion should have existed about the propriety of the two additional payments totaling \$342.72 that the candidate committee made to Clambake Connection. Both occurred in November 2012, after the candidate had received a grant from the Citizens' Election Fund.
11. Respondent was informed by Commission staff that after his candidate committee received a grant the committee could not make payments to his company.
12. Respondent maintains that he was diligent in his efforts to comply with Connecticut's campaign finance statutes.
13. 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.
14. 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.
15. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him concerning this matter, and this complaint will be closed.
16. 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.

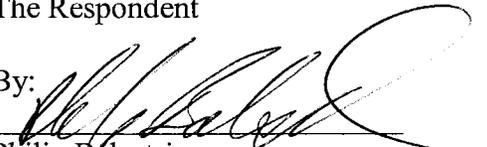
ORDER

IT IS HEREBY ORDERED THAT Respondent reimburse the Citizens' Election Fund for the \$342.72 that his company, Clambake Connection, received from his qualified candidate committee and that Respondent pay a civil penalty of \$200 for violating the regulations of the Citizens' Elections Program related to payments from qualified candidate committees to candidate-owned companies.

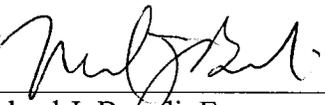
The Respondent

For the State of Connecticut

By:


Philip Balestriere
20 Judy Lane
Stamford, CT 06906

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

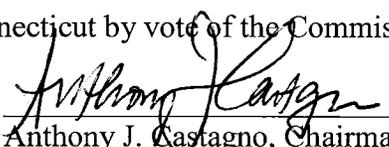
Dated:

9/9/15

Dated:

9/10/15

Adopted this 15 day of SEP, 2015 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission