

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Wilm Donath and Carola Cammann, Stamford

File No. 2013-008

AGREEMENT CONTAINING CONSENT ORDER

This agreement, by and between Daniel M. McCabe of the City of Stamford, County of Fairfield, State of Connecticut (hereinafter "Respondent"), and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with the Regulations of Connecticut State Agencies § 9-7b-54 and Connecticut General Statutes § 4-177 (c). In accordance herewith, the parties agree that:

1. On March 1, 2012, Committee for Responsible Republican Leadership (hereinafter the "Committee") was registered as a political committee with the City of Stamford Town Clerk's office. The Committee's stated purpose was "Ongoing – Municipal Elections Only." Respondent was the designated Chairperson and Mr. Michael Totilo was the designated Treasurer.
2. Complainants alleged that the Committee failed to properly register as a committee pursuant to General Statutes §§ 9-602 and 9-605 and failed to properly disclose activity as required by the reporting requirements of § 9-608.
3. Specifically, Complainants alleged that:
 - a. The Committee failed to accurately identify its purpose on its initial registration statement as required by § 9-605;
 - b. The Committee registration listed Respondent and Michael Totilo as Chairman and Treasurer respectively, but the next statement listed only Respondent as *both* Chairman and Treasurer, with no amended statement as required by § 9-605;
 - c. Mr. Totilo failed to file his resignation as required by § 9-602;
 - d. The Committee failed to itemize a \$4,202.60 expenditure incurred but not paid it disclosed on the summary page of its April 10, 2012 *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20) as required by § 9-608; and,
 - e. The Committee failed to eliminate its deficit prior to terminating as required by § 9-608.

4. General Statutes § 9-602, provides in pertinent part:

(a) Except with respect to an individual acting alone, or with respect to a group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate, ***no contributions may be made, solicited or received and no expenditures may be made, directly or indirectly, in aid of or in opposition to the candidacy for nomination or election of any individual*** or any party or referendum question, ***unless (1) the candidate or chairman of the committee has filed a designation of a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds, ...***

(c) An individual who is designated as campaign treasurer of a committee shall be responsible for all duties required of him under this chapter until the committee is terminated. ***The campaign treasurer shall be relieved of such duties upon*** his permanent incapacity, ***resignation*** or replacement, ***provided a statement to that effect is filed with the proper authority***, as provided in section 9-603. In the event of the death of the campaign treasurer or after a statement has been filed concerning the campaign treasurer's incapacity, resignation or replacement, if a deputy campaign treasurer has been designated, the deputy campaign treasurer shall be responsible for all duties required of the campaign treasurer under this chapter until the candidate or chairman of the committee files with the proper authority a designation of a successor campaign treasurer. ***If a deputy campaign treasurer has not been designated, the candidate or chairman shall designate a successor campaign treasurer and file such designation with the proper authority not more than ten days after the*** death of the campaign treasurer or the filing of the statement of his incapacity, ***resignation*** or replacement.

[Emphasis added]

5. General Statutes § 9-605, provides in pertinent part:

(a) The chairperson of each political committee shall designate a campaign treasurer and may designate a deputy campaign treasurer. The campaign treasurer and any deputy campaign treasurer so designated shall sign a statement accepting the designation. ***The chairperson of each political committee shall file a registration statement described in subsection (b) of this section along with the statement signed by the designated campaign treasurer*** and deputy campaign treasurer with the proper authority, within ten days after its organization, provided that the chairperson of any political committee organized within ten days prior to any primary, election or referendum in connection with which it intends to make any contributions or expenditures, shall immediately file a registration statement.

(b) The registration statement shall include: (1) The name and address of the committee; (2) ***a statement of the purpose of the committee***; (3) the name and address of its campaign treasurer, and deputy campaign treasurer if applicable; (4) the name, address and position of its chairman, and other principal officers if applicable; (5) the name and address of the depository institution for its funds; (6) the name of each person, other than an individual, that is a member of the committee; (7) ***the name and party affiliation of each candidate whom the committee is supporting and the office or position sought by each candidate***; (8) ***if the committee is supporting the entire ticket of any party, a statement to that effect and the name of the party***; ...

(c) ***The chairman of each political committee shall report any addition to or change in information previously submitted in a statement of organization to the proper authority not later than ten days after the addition or change.***

[Emphasis added.]

6. General Statutes § 9-608, provides in pertinent part:

(a)(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) 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; ***(C) an itemized accounting of each expense incurred but not paid, provided if the expense is incurred by use of a credit card, the accounting shall include secondary payees, and the amount owed to each such payee; deficit, as the case may be;***

...

...

(e)(H)(4) In the event of a deficit, the campaign treasurer shall file a supplemental statement ninety days after an election, primary or referendum not held in November or on the seventh calendar day in February, or the next business day if such day is a Saturday, Sunday or legal holiday, after an election or referendum held in November, with the proper authority and, thereafter, on the seventh day of each month following if on the last day of the previous month there was an increase or decrease in the deficit in excess of five hundred dollars from that reported on the last statement filed. ***The campaign treasurer shall file such supplemental statements as required until the deficit is eliminated.*** ...

[Emphasis added.]

7. Complainant alleged in Allegation One that the Committee failed to accurately identify its purpose on its initial registration statement as required by General Statutes § 9-605 (b) (2).
8. Upon investigation, it was determined that the Committee was registered with a stated purpose of the committee on SEEC Form 3 at data field 25 as "Ongoing – Municipal Elections Only." Respondent admitted that the true purpose of the committee was to support specific Republican candidates at the March 2012 Republican Town Committee primary in Stamford. This true purpose was also reflected in the media pertaining to the aforementioned primary.

9. The investigation revealed that the SEEC Form 3 of the Committee, while stating a purpose for the committee, did not state its actual purpose which should have been incorporated in data field 25b as “Durational – Single Primary Date.”
10. Respondent signed the SEEC Form 3 registration attesting that the information was accurate; however, the stated purpose of the committee did *not* comport with the requirement of General Statutes § 9-605 (b) (2), (7) and (8), in that the stated purpose was inaccurate.
11. The Commission concludes that Respondent, as detailed in paragraphs 8 through 10 above, violated General Statutes § 9-605 by inaccurately stating the Committee’s true purpose on the aforementioned form.
12. Complainant alleged in Allegation Two that the Committee registration listed Respondent and Mr. Totilo as Chairman and Treasurer respectively, but the subsequent Committee statement listed only Respondent as *both* Chairman and treasurer, with no amended statement as required by General Statutes §9-605 (c).
13. After investigation, it was determined that Respondent did *not* amend the Committee’s registration statement after receiving written notice on March 5, 2012 of Mr. Tontilo’s resignation as treasurer.
14. Respondent admits that he failed to amend the registration statement of the Committee as required by General Statutes § 9-605 (c), and has agreed to correct, file or amend any statements as determined by this investigation.
15. The Commission concludes that Respondent should have filed an amended registration statement of the Committee after Mr. Totilo’s attempted resignation as treasurer. Therefore, as alleged by Complainant in Allegation Two, the Commission concludes that Respondent violated General Statutes § 9-605 (c) by not filing the required amended statement after receiving written notice of the treasurer’s resignation.
16. Complainant alleged in Allegation Three that Mr. Totilo failed to file his resignation as required by General Statutes § 9-602 (c).

17. Upon investigation, Mr. Totilo provided to the Commission a March 5, 2012 resignation letter to City of Stamford Town Clerk and copied to Respondent who was listed as "Chairperson." Mr. Totilo claimed that he hand-delivered the original and the copy to Respondent, with the understanding that the latter would file his resignation with the town clerk's office.
18. The Commission finds no evidence that Mr. Totilo's resignation was filed with the Stamford City Clerk's office as required by General Statutes § 9-602 (c).
19. While it was Mr. Totilo's responsibility to properly file his resignation pursuant to General Statutes § 9-602 (c), it appears that he made a good faith effort to do so by delivering it to the Chairman of the Committee.
20. The Commission concludes that Mr. Totilo should have filed his resignation to the proper authority. However, since the failure to comply with General Statutes § 9-602(c) was apparently in good faith, the Commission concludes that no further action will be taken regarding Allegation Three in these narrow and limited circumstances.
21. Complainant alleged in Allegation Four that the Committee failed to itemize a \$4,202.60 expenditure incurred but not paid it disclosed on the summary page of its April 10, 2012 *Itemized Campaign Finance Disclosure Statement* (hereinafter "SEEC Form 20").
22. Upon Review, it was determined that the April 10, 2012 SEEC Form 20 filed for the Committee included, under Section S, an expense incurred but not paid by the Committee in the amount of \$4,202.60 to Direct Mail Systems/Direct response marketing. The aforementioned disclosure did not include the secondary payees. The April 10, 2012 filing was signed by Respondent as chairperson and Mr. Totilo as treasurer.
23. The investigation revealed that Mr. Totilo had hand-delivered his resignation on or about March 5, 2012 *prior* to this filing, and Respondent was acting as the *de facto* treasurer. Further, Respondent has offered to take responsibility for the errors in the Committee filings.
24. The Commission concludes that Respondent should have included secondary payees on his SEEC Form 20 as required by General Statutes § 9-608 (c) (C). Therefore, as alleged in

Allegation Four, the Commission concludes that Respondent, as *de facto* treasurer, violated the aforementioned statutes.

25. Complainant alleged in Allegation Five that the Committee failed to eliminate its deficit prior to terminating as prohibited by General Statutes § 9-608 and did not file the required supplemental statements until the deficit is eliminated as required by § 9-608 (e) (H) (4).
26. After investigation, it was determined, and Respondent admits, that he filed and signed as treasurer a statement for the Committee designated “termination” with the Stamford City Clerk on July 5, 2012 without disclosing how the deficit of \$4,202.60 was eliminated. Respondent admits that the Committee’s deficit had not been eliminated at the time of termination.
27. The Commission finds that Respondent should not have terminated until he eliminated the Committee’s debt and should have filed the required supplemental statements until the Committee’s lawful termination. Therefore, as alleged in Allegation Five, the Commission concludes that Respondent violated General Statutes § 9-608 (e) (H) (4).
28. The Commission notes that Respondent has no prior history with the Commission as a Respondent. However, Respondent, as a practicing attorney in Connecticut, is deemed by the Commission a sophisticated participant in the campaign finance system.
29. The Commission also notes that Respondent, as the *de facto* treasurer of the Committee, had the knowledge and the control of the Committee’s financial situation and the wherewithal to properly disclose and report the same or seek information and resources to enable him to do so.
30. Finally, the Respondent asserts that while he agrees to settle this matter with the Commission, he does so without admitting any willful wrongdoing on his part as pertains to the violations detailed herein.
31. 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.

32. 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.
33. 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.
34. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiated any further proceedings against Respondent with respect to this matter.

ORDER

IT IS HEREBY ORDERED that Respondent shall pay an administrative payment of three hundred dollars (\$300.00) on or before July 17, 2013.

IT IS FURTHER ORDERED that Respondent shall amend the relevant filings for the Committee with the Stamford City Clerk within 60 days of the adoption of this agreement and duly notify the Commission of such amendments.

IT IS FURTHER ORDERED that Respondent shall henceforth strictly comply with General Statutes §§ 9-602, 9-605 and 9-608.

The Respondent:

For the State Elections Enforcement Commission:

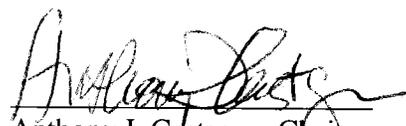
By 
Daniel M. McCabe
1200 Summer Street
Stamford, CT 06905

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

Dated: 7/2/13

Dated: 7/8/13

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


Anthony J. Castagno, Chairman
By Order of the Commission

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