

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

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In the Matter of a Referral by a SEEC Elections Officer

RESPONDENT:
Andrew T. Rule
186 Chimney Hill Road
Yalesville, CT 06492

File No. 2013-034NF

FINAL DECISION

This matter was heard as a contested case on June 12, 2013 and on August 16, 2013 pursuant to Chapter 54 of the Connecticut General Statutes, § 9-7b of the Connecticut General Statutes and § 9-7b-35 of the Regulations of Connecticut State Agencies, at which time Attorney Patrick J. Lamb appeared on behalf of the State of Connecticut and the Respondent, Andrew T. Rule, appeared. Documentary and testimonial evidence was presented.

After careful consideration of the entire record, the following facts are found and conclusions of law are made:

1. Michael J. Brandi was designated as permanent Hearing Officer for hearings concerning alleged violations of General Statutes § 9-608 on March 21, 2012 by order of the State Elections Enforcement Commission.
2. At all relevant times, the Libertarian Party of Connecticut has been registered as a state central committee. *Joint Exhibit 1*. The Respondent served as the treasurer of the Libertarian Party of Connecticut from April 12, 2007 until his resignation effective July 11, 2013. *Joint Exhibit 1; State's Exhibit 15*.
3. General Statutes § 9-608 (a) (as amended by Public Act 13-180) provides, in relevant part, as follows: "(3) In the case of **state central committees**, (A) **on the tenth calendar day in the months of January**, April and July, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, on the next business day, (B) on the twelfth day preceding any regular election, and (C) if the committee has made or received a contribution or expenditure in connection with any other election, or any primary or referendum, on the twelfth day preceding the election, primary or referendum, **the treasurer of each such committee shall file with the proper authority, a statement**, sworn under penalty of false statement, complete as of the last day of the month immediately preceding the month in which such statement is to be filed in the case of statements required to be filed in January, April and July, and complete as of the nineteenth day preceding an election, primary or referendum in the case of the statement required to be filed on the twelfth day preceding an election, primary or referendum, **and in each case covering a period to begin with the first day not included in the last filed statement.**" (Emphasis added).

4. General Statutes § 9-623 (b) provides as follows: “(1) If any campaign treasurer fails to file any statement required by section 9-608, or if any candidate fails to file either (A) a statement for the formation of a candidate committee as required by section 9-604, or (B) a certification pursuant to section 9-603 that the candidate is exempt from forming a candidate committee as required by section 9-604, within the time required, the campaign treasurer or candidate, as the case may be, shall pay a late filing fee of one hundred dollars. (2) In the case of any such statement or certification that is required to be filed with the State Elections Enforcement Commission, the commission shall, not later than ten days after the filing deadline is, or should be, known to have passed, notify by certified mail, return receipt requested, the person required to file that, if such statement or certification is not filed not later than twenty-one days after such notice, the person is in violation of section 9-603, 9-604 or 9-608.”
5. On January 10, 2013, the Respondent was required to file a financial disclosure statement on behalf of the Libertarian Party of Connecticut per General Statutes § 9-608 (a) (3), but did not. *State’s Exhibit 2; Joint Exhibit 1.*
6. On January 22, 2013, Commission staff sent a letter to the Respondent, by certified mail, return receipt requested, stating that the Commission had not received a financial disclosure statement from him that was due on January 10, 2013. *State’s Exhibit 6.* The letter imposed a \$100 late fee and requested that he file the statement within 21 days. *State’s Exhibit 6.* The letter warned that if the Respondent did not submit the statement within 21 days, the Commission may order a public hearing and he could be subject to a civil penalty of up to \$2,000. *State’s Exhibit 6.*
7. On April 2, 2013, Commission staff sent a letter to the Respondent, stating that the Commission had still not received a financial disclosure statement from him that was due on January 10, 2013. *State’s Exhibit 7.* The letter explained that the Respondent was subject to a civil penalty between \$200 and \$2,000 but that he could avoid further enforcement of the matter if he submitted the statement and a payment of \$200 by April 16, 2013. *State’s Exhibit 7.* The Respondent was sent this letter by certified mail. *State’s Exhibit 7.*
8. On May 13, 2013, notice of a June 12, 2013 hearing was sent to the Respondent by first-class mail with delivery confirmation tracking and receipt and by certified mail and regular mail at the address provided on the committee registration statement on file with the Commission. *State’s Exhibit 1.* On May 14, 2013, a first amended notice of the June 12, 2013 hearing was sent to the Respondent by first-class mail with delivery confirmation tracking and receipt and by certified mail and regular mail at the address provided on the committee registration statement on file with the Commission. *State’s Exhibit 2.* The first amended notice clarified that the period covered by the missed January 10, 2013 filing was

April 1, 2012 through December 31, 2012 because it was required, pursuant to General Statutes § 9-608 (a) (3), to cover the period from the first day not included in the last filed statement through December 31, 2012, and the committee's last purported filing covered April 1, 2012 through June 30, 2012 was not signed as sworn under penalty of false statement and therefore not a statement filed under General Statutes § 9-608 (a) (3). *State's Exhibit 2.*

9. The Respondent attended the June 12, 2013 hearing.
10. On June 12, 2013, the Respondent signed an irrevocable waiver of his right to serve as a treasurer or a deputy treasurer for purposes of the Connecticut campaign finance statutes and waived his right to object to any order of the Commission imposing such a ban, even if such a ban is not based on a finding of intentional violation or limited to a five year duration. *Joint Exhibit 2.*
11. At the time of the June 12, 2013 hearing, the Respondent had not filed the disclosure statement at issue. The Respondent admitted that he had violated General Statutes § 9-608 by failing to submit the filing in a timely manner and that unsworn filings do not constitute filings for purposes of compliance with General Statutes § 9-608. *Joint Exhibit 1.* The Respondent represented that he anticipated he would be able to file disclosure statements to cover the April 1, 2012 through December 31, 2012 period no later than August 15, 2013. *Joint Exhibit 1.* The parties also stipulated that if the outstanding disclosure was filed, they would agree that the Hearing Officer could consider the nature, scope, and timeliness of such sworn disclosure in reducing the recommended penalty from the maximum amount. *Joint Exhibit 1.*
12. The Hearing Officer continued the hearing to August 16, 2013 in order to provide the Respondent with time to file the outstanding disclosure and comply with the agreements stipulated to at the June 12, 2013 hearing.
13. On August 15, 2013, the Respondent submitted financial disclosure statements, including the January 10, 2013 filing, covering the period from April 1, 2012 through December 31, 2012. *Joint Exhibits 3, 5, 6, and 7.* The January 10, 2013 filing was 217 days late. *Joint Exhibits 3 and 7.* The late disclosure for the filing period at issue included approximately \$82,280.00 in contributions received by the committee and approximately \$82,933.00 in expenditures made by the committee. *Joint Exhibit 3.*
14. At the August 16, 2013 hearing, the Respondent testified that personal circumstances led him to be late with the filings. *Testimony of Andrew Rule.* He also testified that he had delegated some of his treasurer duties to another individual who was not appointed as deputy treasurer, including recordkeeping, making deposits, and making expenditures (she was a signatory on the committee's checking account). *Testimony of Mr. Rule; State's*

Exhibits 4 and 5. He testified that because this individual did not record everything as he had asked her, it was difficult for him to accurately compile the records he needed so that he could timely report. **Testimony of Mr. Rule.** He also testified that additional duties of the party were unexpectedly thrown upon him, such as serving as ballot access coordinator given the personal circumstances of others, which made it more difficult for him to perform his treasurer duties. **Testimony of Mr. Rule.**

15. It is concluded that the Respondent violated General Statutes § 9-608 by failing to timely file a financial disclosure statement on January 10, 2013 for the period covering from the first day not included in the last filed statement through December 31, 2012.
16. Evidence was presented that Commission staff was persistent and rigorous in its efforts to contact the Respondent about the delinquent filing. **State's Exhibits 2, 6, 7, and 9.**
17. General Statutes § 9-7b (a) (2) provides, in pertinent part, that the Commission shall have the power to levy a civil penalty not to exceed "two thousand dollars per offense or twice the amount of any improper payment or contribution, whichever is greater, against any person the commission finds to be in violation of any provision of chapter 155 or 157." The Commission may levy a civil penalty against any person only after giving the person an opportunity to be heard at a hearing. *See* General Statutes § 9-7b (a) (2).
18. General Statutes § 9-623 (b) (4) provides, in pertinent part, that "[t]he penalty for any violation of section . . . 9-608 . . . shall be a fine of not less than two hundred dollars or more than two thousand dollars or imprisonment for not more than one year, or both."
19. Section 9-7b-48 of the State of Connecticut Regulations provides, "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."
20. It was recommended that the Commission consider the following as aggravating circumstances per § 9-7b-48, Regs., Conn. State Agencies: (1) the late disclosure eventually filed on August 15, 2013 disclosed approximately \$82,280.00 in contributions and approximately \$82,933.00 in expenditures; (2) the January 10, 2013 filing was 217 days late; (3) Commission staff both informed the Respondent of his duties as treasurer and made diligent efforts to contact him about the missed filing; (4) the Respondent admitted during testimony both that he did not have the proper internal records he needed to submit the filing, despite being required to preserve such records as treasurer of the committee pursuant to General Statutes § 9-607 (f), and that he was neither the sole individual depositing or authorizing the deposit of contributions nor the sole individual making the

committee's expenditures, despite the fact that only he as treasurer (no deputy treasurer had been appointed) is permitted to perform such activities pursuant to General Statutes § 9-606 (a).

21. It was recommended that the Commission consider the following as mitigating circumstances per § 9-7b-48, Regs., Conn. State Agencies: (1) the Respondent submitted the January 10, 2013 statement, as well as other statements to cover the entire filing period that was outstanding, by the August 16, 2013 hearing, showing good faith in attempting to comply; (2) the Respondent admitted to fault and showed remorse during his testimony at both the June 12, 2013 and August 16, 2013 hearings; and (3) the Respondent resigned as treasurer and agreed to waive his right to serve as treasurer or deputy treasurer for purposes of the Connecticut campaign finance statutes.
22. In consideration of the factors listed above, it was recommended that the Commission: (1) assess a civil penalty against the Respondent in the amount of \$1,000.00 for his violation of General Statutes § 9-608 but suspend \$800.00 of said penalty in light of his agreement to waive his right to serve as treasurer or deputy treasurer; (2) prohibit the Respondent from serving as a treasurer or deputy treasurer of any committee organized under Chapter 155 of the Connecticut General Statutes for a period of five years from the date of the Commission's final decision on this matter; and (3) after the five year period has expired, and provided \$200.00 of the civil penalty has been timely paid, deem the matter concluded, agree to not refer the balance to the Office of the Attorney General for any collection action, and permit the Respondent to act as treasurer or deputy treasurer of a committee pursuant to General Statutes § 9-606 (d) (as amended by Public Act 13-180) unless otherwise prohibited.

The following Order is recommended on the basis of the record of the above captioned matter:

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall be prohibited from serving as treasurer or deputy treasurer of any committee organized under Chapter 155 of the Connecticut General Statutes for a period of five years from the date of this final decision, pursuant to General Statutes § 9-7b (a) (3) (B) (ii).

IT IS HEREBY ORDERED THAT the Respondent shall be assessed a civil penalty in the amount of \$1,000.00, for violation of General Statutes § 9-608, pursuant to General Statutes § 9-7b (a) (2), \$200.00 of which shall be paid within 30 days of notice of this decision, and \$800.00 of which shall be suspended in light of his agreement to waive his rights to serve as treasurer or deputy treasurer of any committee organized under Chapter 155 of the Connecticut General Statutes for a period of five years from the date of the Commission's final decision.

IT IS HEREBY ORDERED THAT, subject to compliance with this Order, after the period of five years has expired, and provided \$200.00 of the civil penalty has been timely paid pursuant to this Order, the Commission shall deem the matter concluded and shall not refer the matter to the Office of the Attorney General for any collection action. At that time, the Respondent may again act as treasurer or deputy treasurer of a committee pursuant to General Statutes § 9-606 (d) (as amended by Public Act 13-180), unless otherwise prohibited.

Adopted this 20th day of November, 2013 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission

I certify the preceding final decision was sent to Andrew T. Rule, 186 Chimney Hill Road, Yalesville, CT 06492, first-class mail with delivery confirmation tracking and receipt and certified mail and regular mail on November 20, 2013.



Sheri-Lyn Lagueux
Clerk of the Commission