

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Byron Wentworth, North Branford

File No. 2013-148

FINDINGS AND CONCLUSIONS

The Complainant filed this complaint pursuant to General Statutes § 9-7b alleging that the treasurer of the North Branford Democratic Town Committee violated General Statutes § 9-608 (a) by failing to file financial disclosure statements on the due dates of the statements, July 10, 2013 and October 10, 2013.

After an investigation of the complaint, the Commission makes the following findings and conclusions:

1. From July 23, 2012 to September 11, 2013, Mr. Eric Hodgson served as treasurer for the North Branford Democratic Town Committee (the "Committee"). Mr. Hodgson resigned as treasurer with a handwritten note filed with the State Elections Enforcement Commission on September 11, 2013.
2. Correspondence provided by Mr. Hodgson dated July 1, 2013 indicates that Mr. Hodgson erroneously understood that his resignation as treasurer could be achieved solely by resigning in writing to the chairperson of the committee.
3. At all times relevant hereto, the Committee had no designated deputy treasurer.
4. Mr. Hodgson did not file the Committee's financial disclosure report due on July 10, 2013.
5. Pursuant to General Statutes § 9-623, on July 22, 2013, the State Elections Enforcement Commission issued a certified warning letter to Mr. Hodgson informing him that if he did not file the outstanding July 10, 2013 report within twenty-one days of the date of such warning letter, he would be subject to potential additional civil penalties. Mr. Hodgson filed such report with the Commission on August 13, 2013.
6. On October 30, 2013, the Commission received an amended committee registration designating Elisabeth Caplan as treasurer. On December 10, 2013, Ms. Caplan filed the outstanding report that was due on October 10, 2013, covering the period from July 1, 2013 to September 30, 2013.
7. General Statutes § 9-602 (b) provides:

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].

8. General Statutes § 9-603 (a) provides that:

Statements filed by party committees ... shall be filed with the State Elections Enforcement Commission...

9. General Statutes § 9-608 (a) (1) sets forth certain filing dates for committee treasurers and provides in relevant part:

Each treasurer of a committee, other than a state central committee, shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603, (A) on the tenth calendar day in the months of January, April, July and October, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, the statement shall be filed on the next business day....

10. General Statutes § 9-623 (b) (1) sets forth a mandatory fee for treasurers who fail to meet the filing deadlines and provides:

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.

11. General Statutes § 9-623 (b) (2) imposes certain warning requirements upon the State Elections Enforcement Commission related to late filings:

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.

12. Pursuant to General Statutes § 9-602, Mr. Hodgson remained treasurer of the committee until the State Elections Enforcement Commission received a written notice of his resignation. Accordingly, Mr. Hodgson was the treasurer of record on July 10, 2013. Because he did not file by such date, he immediately incurred a \$100.00 mandatory late filing fee prescribed by General Statutes § 9-623 (b) (1).¹

13. In this instance, because the State Elections Enforcement Commission was the filing repository, such fee was due to the State of Connecticut and has been paid Mr. Hodgson.²

14. As noted above, on the October 10, 2013 filing deadline, there was no Committee treasurer or deputy treasurer. “[T]he new treasurer, in instances where a new treasurer has been elected, but not properly designated [per § 9-602 and 9-603], is not liable for a late filing penalty, since he is specifically not permitted to fulfill the functions of a campaign treasurer until he has been designated in accordance with the statute.” See Advisory Opinion [19]76-12.³ Accordingly, as there was no individual lawfully entitled to act as treasurer or deputy treasurer on such date, there is no individual to hold liable for such late or outstanding filing.

15. The Commission notes that, in full cooperation with the instant investigation, the subsequent treasurer, Ms. Caplan, filed a financial report for the period covered by the October 10, 2013 report.

¹ For the non-discretionary nature of such fees see Advisory Opinions [19]75-7 and [19]75-10.

² When the filing repository is a municipal clerk, the filing fee is owed to the applicable municipality. See Advisory Opinion [19]75-7.

³ The treasurer designation statute at issue, originally cited as General Statutes § 9-348p (a), has undergone substantial recodification between 1976 and 2013.

ORDER

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

That no further action be taken.

Adopted this 15th day of January, 2014 at Hartford, Connecticut.



Anthony J. Castagno, Chairman
By Order of the Commission