

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

*In re. Audit Report for Nicastro for State Representative 2012*

File No. 2014-012

**AGREEMENT CONTAINING A CONSENT ORDER**

This Agreement by and between Frank N. Nicastro, City of Bristol, State of Connecticut, hereinafter referred to as Respondent Nicastro, and the undersigned authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. The Commission entered a separate agreement with Dean B. Kilbourne, City of Bristol, State of Connecticut, hereinafter referred to as Respondent Kilbourne, in September 2016. In accordance herewith, the parties agree that:

1. The Commission initiated an investigation into whether Respondent Nicastro, a candidate for the 79<sup>th</sup> General Assembly District, and/or his candidate committee treasurer, Respondent Kilbourne, violated General Statutes §§ 9-607, 9-608, CEP program statutes, regulations or requirements based up on information discovered during the audit of the *Nicastro for State Representative 2012* candidate committee.
2. The Commission performed an in-depth review of the expenditures of the *Nicastro for State Representative 2012* candidate committee after the committee's selection in the random audit lottery conducted following the 2012 election cycle. Respondent Nicastro established the committee in 2012 to support his nomination for election as a candidate in the 79<sup>th</sup> General Assembly district.<sup>1</sup> The committee opted to participate in the Citizens' Elections Program.<sup>2</sup> The Commission issued a grant from the Citizens Election Fund totaling \$26,850 on July 23, 2012.<sup>3</sup>
3. The 2012 General Election occurred on November 6, 2012. Respondent Nicastro was elected to represent the 79<sup>th</sup> district in the General Assembly. On November 9, 2012, the candidate committee paid for advertisements in two Bristol-area newspapers. The

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<sup>1</sup> See SEEC Form 1 – Registration of Candidate Committee (*Nicastro for State Representative 2012*, March 9, 2012) (reflecting establishment of candidate committee by Frank N. Nicastro and appointment of Dean B. Kilbourne as treasurer).

<sup>2</sup> See SEEC Form CEP 10 – Affidavit of Intent to Abide by Expenditure Limits and Other Citizens' Election Program Requirements (*Nicastro for State Representative 2012*, March 9, 2012) (reflecting intent of candidate and treasurer to participate in Citizens' Election Program and follow voluntary program rules).

<sup>3</sup> See SEEC Form 30 – Itemized Campaign Finance Disclosure Statement: October 10 Filing (*Nicastro for State Representative 2012*, Oct. 9, 2012) (reporting receipt of grant totaling \$26,850 from Citizens' Election Fund on July 23, 2012).

committee paid \$925.16 for an advertisement in the *Bristol Press* and paid \$648.50 for an advertisement in *The Bristol Observer*.<sup>4</sup> The candidate committee returned a surplus of \$727.83 to the Citizens' Election Fund before terminating.<sup>5</sup>

4. The General Assembly directed the Commission to draft regulations limiting expenditures by candidate committees that received grants from the Citizens' Election Fund.<sup>6</sup> The regulations specifically limit qualified candidates committees' post-election spending on "thank-you notes and advertisements."<sup>7</sup> For candidate committees established to support a state representative candidate, the maximum that they may spend on such post-election thank-you communications to electors, volunteers, and supporters is \$500.
5. The payment that the candidate committee made for those post-election advertisements totaled \$1,583.66, exceeding the \$500 limit by \$1,083.66.
6. The candidate, Respondent Nicastro, bears the sole liability to repay any impermissible payments made by his candidate committee.<sup>8</sup>
7. Respondents admit all jurisdictional facts and agrees 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.
8. Respondents waive:
  - 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.
9. Upon the Respondents' agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against them concerning this matter

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<sup>4</sup> See SEEC Form 30 – Itemized Campaign Finance Disclosure Statement: Termination Report for Candidate and Exploratory Committees (*Nicastro for State Representative 2012*, Dec. 13, 2012) (reflecting post-election payments for advertising in two news publications).

<sup>5</sup> See *id.* (reporting surplus payment to Citizens' Election Fund).

<sup>6</sup> See General Statutes § 9-706 (e) (mandating Commission to adopt regulations on "permissible expenditures . . . for qualified candidate committees").

<sup>7</sup> See Regulations of Conn. State Agencies § 9-706-2 (a) (13) (limiting payments for "post-election thank you notes or other advertising to thank campaign staff" for state representative committees to \$500).

<sup>8</sup> See General Statutes § 9-703 (a) (2) (requiring candidate to repay any funds that were not expended in accordance with General Statutes § 9-607 (g) and regulations adopted by the Commission related to expenditures for qualified candidate committees).

or any other findings that appear in the Final Audit Report for the *Nicastro for State Representative 2012* candidate committee.

10. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the Respondents in any subsequent hearing, if the same becomes necessary.

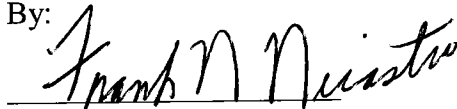
**ORDER**

IT IS HEREBY ORDERED THAT the Respondent Frank N. Nicastro shall reimburse the State of Connecticut Citizens' Election Fund for the one-thousand eighty-three dollars and sixty-six cents (\$1,083.66) that the *Nicastro for State Representative 2012* candidate committee paid for post-election advertisements in excess of the \$500 permitted for such post-election communications under Commission regulations governing committees that received grants from the Citizens' Election Fund.

The Respondent

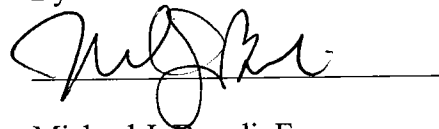
For the State of Connecticut

By:



Frank N. Nicastro  
80 Beleden Gardens Dr.  
Bristol, CT 06010

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: \_\_\_\_\_

Dated: 9/23/16

Adopted this 12 day of Oct, 2016 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman  
By Order of the Commission

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STATE ELECTIONS

SEP 22 2016

ENFORCEMENT COMMISSION