

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 Dean B. Kilbourne, City of Bristol, State of Connecticut, hereinafter referred to as Respondent Kilbourne, 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. Also referenced in this consent agreement is Frank N. Nicastro, City of Bristol, State of Connecticut, hereinafter referred to as Respondent Nicastro. The matter against Respondent Nicastro will be resolved separately. In accordance herewith, the parties agree that:

1. The Commission initiated an investigation into whether Respondent Nicastro, a candidate for the 79th 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 79th General Assembly district.¹ The committee opted to participate in the Citizens' Elections Program.² The Commission issued a grant from the Citizens Election Fund totaling \$26,850 on July 23, 2012.³
3. The 2012 General Election occurred on November 6, 2012. Respondent Nicastro was elected to represent the 79th district in the General Assembly. On November 9, 2012, the candidate committee paid for advertisements in two Bristol-area newspapers. The committee paid \$925.16 for an advertisement in the *Bristol Press* and paid \$648.50 for an

¹ 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).

² 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).

³ 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).

advertisement in *The Bristol Observer*.⁴ The candidate committee returned a surplus of \$727.83 to the Citizens' Election Fund before terminating.⁵

4. The General Assembly directed the Commission to draft regulations limiting expenditures by candidate committees that received grants from the Citizens' Election Fund.⁶ The regulations specifically limit qualified candidates committees' post-election spending on "thank-you notes and advertisements."⁷ 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.⁸
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

⁴ 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).

⁵ See *id.* (reporting surplus payment to Citizens' Election Fund).

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

⁷ 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).

⁸ 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 Dean B. Kilbourne henceforth shall strictly comply with restrictions on payments for post-election advertisements by candidate committees that received grant monies through the Citizens' Election Program.

The Respondent

For the State of Connecticut

By:



Dean B. Kilbourne
381 Fern Hill Road
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

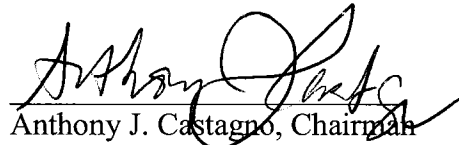
Dated:

8/10/16

Dated:

8/11/16

Adopted this 14 day of SEPT, 2016 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission

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ENFORCEMENT COMMISSION