

OCT 26 2018

ENFORCEMENT COMMISSION

STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION

*In re. Audit of Robbins for Representative*

File No. 2014-051

AGREEMENT CONTAINING A CONSENT ORDER

This Agreement by and between John R. Hall, Town of Wilton, State of Connecticut, hereinafter referred to as Respondent, 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. In accordance herewith, the parties agree that:

1. The Commission performed an in-depth review of the expenditures of the *Robbins for Representative* candidate committee after the committee's selection in the random audit lottery conducted following the 2012 election cycle. Mark H. Robbins established the committee in 2012 to support his nomination for election as a candidate in the 125<sup>th</sup> General Assembly district.<sup>1</sup> The committee opted to participate in the Citizens' Elections Program.<sup>2</sup> The Commission approved a grant from the Citizens Election Fund totaling \$26,730, which was received by the committee on July 23, 2012.<sup>3</sup>
2. According to the Commission's audit and investigation, the committee entered into an agreement with Merriman River Group to perform automated phone campaigning on behalf of the candidate. The total invoiced amount for that service was \$747.35. The candidate and treasurer were both novices to their respective roles, having never run for office or served as treasurer before. The candidate and treasurer entered into this agreement for robo-calling services assuming that the Wilton Democratic Town Committee could make an "organization expenditure" for certain expenses totaling as much as \$3,500. According to the candidate committee, the candidate and treasurer believed that the House Democrats Caucus had transferred \$500 to the Wilton DTC that was intended to promote Robbins.<sup>4</sup> The candidate and treasurer entered into the

<sup>1</sup> See SEEC Form 1 – Registration of Candidate Committee (*Robbins for Representative*, June 1, 2012) (reflecting establishment of candidate committee by Mark H. Robbins and appointment of John R. Hall as treasurer).

<sup>2</sup> See SEEC Form CEP 10 – Affidavit of Intent to Abide by Expenditure Limits and Other Citizens' Election Program Requirements (*Robbins for Representative*, June 1, 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: First Weekly Supplemental Filing before General Election (*Berger 2012*, Nov. 6, 2012) (reporting grant received from Citizens' Election Fund on October 15, 2012).

<sup>4</sup> On Nov. 3, 2012, Robbins received an email from Christy Scott notifying him that the House Democratic Campaign Committee had made an organization expenditure on their behalf. Upon checking with Paige Adams, elections officer

agreement for the “robo-calling” wrongly assuming that the town committee would cover at least a portion of their expenses, based on what they thought was a \$500 contribution from the House Democrats to the Wilton committee.

3. That assumption, however, proved wrong, as the Wilton DTC did not make an organization expenditure to promote Robbins. Ultimately, the candidate committee was unable to pay the entire amount it owed to Merriman River Group. It paid only \$48.16 of the bill. After consulting with SEEC, Robbins and Hall satisfied the committee’s outstanding obligation to Merriman River Group, splitting the \$700 that remained owing to the company between themselves.
4. General Statutes § 9-702 creates an “expenditure limit” for candidate committees that voluntarily participate in the Citizens’ Election Program.<sup>5</sup> If a qualified candidate committee exceeds the relevant expenditure limits, the committee has made an “excess expenditure” and is subject to penalties under General Statutes § 9-711, which states:

If an expenditure in excess of the applicable expenditure limit set forth in subsection (c) of section 9-702 is made or incurred by a qualified candidate committee that receives a grant from the Citizens’ Election Fund pursuant to section 9-706, (1) the candidate and treasurer of said committee shall be jointly and severally liable for paying for the excess expenditure, (2) the committee shall not receive any additional grants or moneys from the fund for the remainder of the election cycle if the State Elections Enforcement Commission determines that the candidate or treasurer of said committee had knowledge of the excess expenditure, (3) the treasurer shall be subject to penalties under section 9-7b, and (4) the candidate of said candidate committee shall be deemed to be a nonparticipating candidate for the purposes of sections 9-700 to 9-716, inclusive, if the commission determines that the candidate or treasurer of said committee had knowledge of the excess expenditure. The commission may waive the provisions of this subsection upon determining that an excess expenditure is de minimis. The commission shall adopt regulations, in accordance with the provisions of chapter 54, establishing standards for making such determinations. Such standards shall include, but not be limited to, a finding by the

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at SEEC, Robbins and Hall learned what an “organization expenditure” was. *See* Email from Mark Robbins to John Hall (Nov. 5, 2012) (including string of messages reflecting communication from Scott and candidate’s exchange with Adams at SEEC).

<sup>5</sup> *See* General Statutes § 9-702 (c) (imposing “expenditure limit” on participating candidates equal to any qualifying contributions received, any personal funds contributed by the candidate, and amount of grant issued by Commission). For a qualified state representative candidate committee for the 2012 general election, the applicable expenditure limit was the amount of qualifying contributions necessary to qualify (\$5,000) plus the general election grant (\$26,850) totaling, \$31,850.

commission that the candidate or treasurer has, from the candidate's or treasurer's personal funds, either paid the excess expenditure or reimbursed the qualified candidate committee for its payment of the excess expenditure.<sup>6</sup>

5. The Commission drafted regulations regarding excess expenditures by candidate committees that received grants from the Citizens' Election Fund and how it should analyze excess expenditures to determine if they are de minimus.<sup>7</sup>

The Commission shall determine whether an excess expenditure is de minimis by considering the following factors:

1. the size of the excess expenditure in relation to the applicable expenditure limit;
  2. whether any unforeseen extraordinary circumstances, such as a natural disaster, contributed to the obligation to incur or the occurrence of the excess expenditure;
  3. whether the participating candidate or such candidate's campaign treasurer exercised due diligence to abide by the applicable expenditure limit, notwithstanding the excess expenditure;
  4. whether the participating candidate or such candidate's campaign treasurer has used such candidate's or treasurer's personal funds to either pay for the excess expenditure or reimburse the qualified candidate committee for its payment of such excess expenditure; and
  5. whether the participating candidate or such candidate's campaign treasurer agrees to pay any penalties assessed by the Commission in relation to the excess expenditure.<sup>8</sup>
6. Applying the standards in Regulation § 9-7b-48 tends to mitigate the necessity of imposing a penalty on the treasurer, as authorized under General Statutes § 9-711:
    1. **Gravity** - The excess expenditure represented only 2.2 percent of the total expenditure limit. While excess expenditures are serious under program rules, this violation was unintentional and based on a misunderstanding of the program rules.
    2. **Continued compliance** - The 2012 election cycle represents the only time the candidate and treasurer have participated as candidate or treasurer.
    3. **Previous violations** – As stated, the candidate and treasurer had not been involved in the campaign finance system before 2012.
    4. **Good Faith** – The candidate and treasurer paid the excess expenditure before the initiation of this investigation.

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<sup>6</sup> General Statutes § 9-711 (a).

<sup>7</sup> See General Statutes § 9-706 (e) (mandating Commission to adopt regulations on "permissible expenditures . . . for qualified candidate committees").

<sup>8</sup> Regs., Conn. State Agencies § 9-711-1.

7. The Commission requires candidates and treasurers of qualified candidate committees to pay the Citizens' Election Fund or the vendor for any excess expenditure incurred by the committee. In this instance, the candidate and treasurer jointly paid the vendor fund the \$700 that it was owed by the candidate committee.
8. General Statutes § 9-7b provides in part:
  - (a) The State Elections Enforcement Commission shall have the following duties and powers: . . .
    - (2) To levy a civil penalty not to exceed . . . (D) two thousand dollars per offense or twice the amount of any improper payment or contribution, whichever is greater, against
9. As stated above, the Commission has the authority to impose a civil penalty of as much as \$2,000 for each offense of Connecticut's General Statutes regarding campaign finance.
10. 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 into after a full hearing and shall become final when adopted by the Commission.
11. 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.
12. 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 Respondent in any subsequent hearing, if the same becomes necessary.

**ORDER**

IT IS HEREBY ORDERED THAT the Respondent John R. Hall agrees to pay a civil penalty of \$200 and agrees that in the future he will strictly adhere to the expenditure limits imposed on candidate committees that volunteer to participate in the Citizens' Election Program.

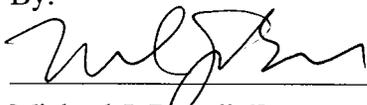
The Respondent

For the State of Connecticut

By:

By:

  
\_\_\_\_\_  
John R. Hall  
341 Olmstead Hill Road  
Wilton, CT 06897

  
\_\_\_\_\_  
Michael J. Brandi, Esq.  
Executive Director and General Counsel and  
Authorized Representative of the  
State Elections Enforcement Commission  
20 Trinity St., Suite 101  
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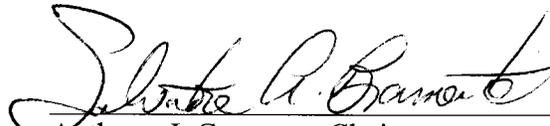
Dated:

10/23/18

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10/23/18

Adopted this 14<sup>th</sup> day of ~~November~~ 2018 at Hartford, Connecticut by vote of the Commission.

  
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Anthony J. Castagno, Chairman  
By Order of the Commission

  
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Salvatore A. Benamonte Vice