

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Referral by the Danbury Municipal Clerk

RESPONDENT:
Thomas William McAllister
32 Weekepeemee Road
Woodbury, CT 06798

File No. 2014-069MNF

Final Decision

This matter was heard as a contested case on October 2, 2014 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 Lamb appeared on behalf of the State of Connecticut and the Respondent, Thomas William McAllister, 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. Committee to Elect McAllister Mayor, the candidate committee for Paul McAllister, was registered with the Danbury town clerk on August 13, 2013. *State's Exhibit 2*. The Respondent served as treasurer of the committee. *State's Exhibit 2; Testimony of Respondent Thomas William McAllister*.
3. General Statutes § 9-608 (a) provides, in relevant part, as follows: “(1) **Each campaign 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, . . .**” (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. . . . (3) In the case of any such statement or certification that is required to be filed with a town clerk, the town clerk shall forthwith 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 seven days after the town clerk mails such notice, the town clerk shall notify the State

Elections Enforcement Commission that the person is in violation of section 9-603, 9-604, or 9-608.”

5. On April 10, 2014, the Respondent was required to file a financial disclosure statement on behalf of Committee to Elect McAllister Mayor per General Statutes § 9-608 (a) (1) (A), but did not. *Testimony of Respondent Thomas William McAllister.*
6. On April 21, 2014, Danbury Town Clerk Lori A. Kaback sent a letter to the Respondent, by certified mail, return receipt requested, stating that the Office of the Town Clerk had not received a financial disclosure statement from him that was due on April 10, 2014. *State's Exhibit 4.* The letter imposed a \$100 late fee and requested that he submit payment within 15 days. *State's Exhibit 4.* The letter warned that if full payment was not received within 15 days from the date of the letter, the Office would take further steps to collect the indebtedness. *State's Exhibit 4.*
7. On June 17, 2014, Commission staff sent a letter to the Respondent, by certified mail, return receipt requested, stating that the Commission had received a referral from the Danbury Municipal Clerk reflecting that the Respondent had failed to file the statement that was due to their office on April 10, 2014. *State's Exhibit 5.* 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 to the Danbury Municipal Clerk and forward a date stamped copy of the statement to the Commission by July 8, 2014. *State's Exhibit 5.*
8. On August 12, 2014, notice of the October 2, 2014 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 Town Clerk. *State's Exhibit 1.*
9. The Respondent attended the October 2, 2014 hearing.
10. At the hearing, the Respondent stipulated to a single violation of General Statutes § 9-608 (a) due to the late April 10, 2014 filing, as alleged in the notice of hearing. *Testimony of McAllister; State's Exhibit 1.*
11. The Respondent testified that he attempted to file a statement with the Town Clerk covering the requisite period on the day prior to the date of the hearing, which was not accepted. *Testimony of McAllister.* The Respondent also submitted a payment of \$100 to the Town Clerk on that date. *State's Exhibit 8.*
12. The parties stipulated at the hearing that a financial disclosure statement presented by the Respondent at the hearing would serve as the requisite missed filing with the

understanding that the Respondent must also file with the Danbury Town Clerk and amend the filing to accurately reflect additional expenditures and fix any inaccuracies. *Testimony of McAllister; Respondent's Exhibit A, B, C, and D.* Effectively, the State accepted the stipulation that it was filed on the day of the hearing for purposes of calculating the lateness of the filing. The State indicated it would forward a copy of the filing to the Danbury Town Clerk for its records.

13. At the hearing, the Respondent testified that he suffered serious medical hardships around and after the time the filing was due. *Testimony of McAllister.* The Respondent voluntarily produced his medical records to substantiate his testimony. The State had the opportunity to do a cursory review of the medical records and found his testimony credible.
14. It is concluded that the Respondent violated General Statutes § 9-608 (a) (1) (A) by failing to timely file a financial disclosure statement due on April 10, 2014.
15. Evidence was presented that Town Clerk and Commission staff were persistent and rigorous in their efforts to contact the Respondent about the delinquent filing. *State's Exhibits 1, 4, and 5.*
16. 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).
17. General Statutes § 9-623 (b) (4) provides, in pertinent part, that "[t]he penalty for any violation of section 9-603, 9-604 or 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."
18. General Statutes § 9-606 (d), as amended by Public Act 13-180, provides: "**No person shall act as treasurer or deputy treasurer (1) unless the person is an elector of this state, the person has paid any civil penalties or forfeitures assessed pursuant to chapters 155 to 157, inclusive, and a statement, signed by the chairman in the case of a party committee or political committee or by the candidate in the case of a candidate committee, designating the person as treasurer or deputy treasurer, has been filed in accordance with section 9-603, . . .**" (Emphasis added).
19. General Statutes § 9-706 (b), as amended by Public Act 13-180, provides that in order to apply for a grant from the Citizens' Election Program, both the candidate and the

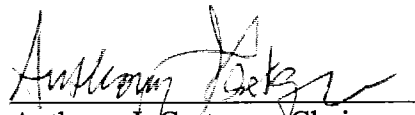
treasurer of the candidate's candidate committee must certify that they have paid any outstanding civil penalties or forfeitures assessed pursuant to chapters 155 to 157.

20. 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."
21. It was recommended that the Commission consider the following as aggravating circumstances per § 9-7b-48, Regs., Conn. State Agencies: (1) the statement due April 10, 2014 was stipulated to be filed on the date of the hearing, making it 175 days late; and (2) Town Clerk and Commission staff informed the Respondent of his duties as treasurer and made diligent efforts to contact him about the missed filing.
22. It was recommended that the Commission consider the following as mitigating circumstances per § 9-7b-48, Regs., Conn. State Agencies: (1) the Respondent suffered serious medical hardships during the relevant time period; and (2) it was stipulated that the Respondent had submitted the filing due April 10, 2014 on the date of the hearing and also paid a \$100 late fee, showing good faith in attempting to comply.
23. In consideration of the factors listed above, it was recommended that the Commission assess a civil penalty against the Respondent in the statutory minimum amount of \$200.00 for his violation of General Statutes § 9-608 and that enforcement of the penalty be suspended indefinitely. If approved, it was further recommended that notice be given to the Respondent that pursuant to General Statutes §§ 9-606 (d) and 9-706 (b), he will not be allowed to serve as treasurer or deputy treasurer of any committee or participate in the Citizens' Election Program as a treasurer, deputy treasurer, or candidate unless and until he pays the aforesaid \$200.00 penalty to the Commission. Otherwise, it was the recommendation of the hearing officer to suspend any administrative enforcement or collection of said penalty based upon the testimony presented at the hearing.

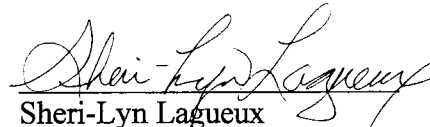
The following Order is adopted on the basis of these findings and conclusions:

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall pay a civil penalty in the amount of \$200.00, payable to the State Elections Enforcement Commission, for violation of General Statutes § 9-608, pursuant to General Statutes § 9-7b (a) (2). Administrative enforcement and collection of such penalty shall be suspended indefinitely. The Respondent is hereby notified that pursuant to §§ 9-606 (d) and 9-706 (b), he may not serve as treasurer or deputy treasurer of any committee or participate in the Citizens' Election Program as a treasurer, deputy treasurer, or candidate until such civil penalty has been paid.


Anthony J. Castagno, Chairman
By Order of the Commission

I certify the preceding final decision was sent to Thomas William McAllister, 32 Weekepeemee Road, Woodbury, CT 06798, first-class mail with delivery confirmation tracking and receipt and certified mail and regular mail on December 10, 2014.


Sheri-Lyn Lagueux
Clerk of the Commission