

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Arnold Skretta, Hartford
In the Matter of a Complaint by Arnold Skretta, Hartford

File No. 2014-077
File No. 2014-083

FINDINGS AND CONCLUSIONS

The Complainant alleged in two separate Complaints that the “Foley for CT” candidate committee failed to properly disclose expenditures for salaries for committee employees as well as expenditures for television advertisements and that such expenditures put the candidate committee impermissibly over the spending limits enumerated in General Statutes § 9-702.¹

Background

1. Respondent Thomas C. Foley was the Republican Party nominee for Governor in the 2014 General Election.
2. Thomas C. Foley formed the candidate committee “Foley for CT” in support of his candidacy for Governor on or about February 6, 2014 along with Respondent Larry J. Lawrence as his treasurer.
3. On or about May 17, 2014, the Republican Party endorsed Respondent Foley as its nominee for Governor at its statewide convention.
4. On or about June 2, 2014 the Foley for CT candidate committee submitted an application for a public financing grant from the Citizens’ Election Fund reporting expenditures made of approximately \$225,877 to that date.

¹ The following are the Commission’s findings and conclusions based on those portions of the Complainant’s statement of complaint, which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission’s jurisdiction and which were not already addressed in the Commission’s completed post-election audit of the Foley campaign. Any statements within the Complaint not addressed herein either were addressed in the post-election audit and/or did not specifically allege a violation or allege facts that if proven true would have amounted to a violation within the Commission’s jurisdiction.

5. On or about July, 2, 2014, the Commission approved the Foley for CT candidate committee for a public financing grant from the Citizens' Election Fund.

Allegations

6. The Complainant here alleges that the "pre-grant approval" spending limit for gubernatorial candidates was \$270,000, which amounts to the limits of permissible contributions (\$250,000) plus the limits of the candidate's own personal funds (\$20,000).
7. The Complainant alleges that the candidate committee under-reported expenditures related to salaries during the period from June 1 to June 28 and also failed to timely and/or accurately report expenditures related to a television advertisement aired on local stations statewide during the July 4th holiday weekend. The Complainant estimates that the candidate committee failed to report or timely report approximately \$15,000 of salary expenditures and \$40,000 of advertising expenditures incurred and/or paid during the month of June 2014.
8. The Complainant further alleges that such under-reporting resulted in the campaign making expenditures in excess of what the Complainant alleges was a \$270,000 expenditure limit prior to the Commission's approval of the Foley for CT's public financing grant.

Law

9. General Statutes § 9-608 provides, in pertinent part:

(a) (1) 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, except that in the case of a candidate or exploratory committee established for an office to be elected at a special election, statements pursuant to this subparagraph shall not be required, (B) on the seventh day preceding each regular state election, except that (i) in the case of a candidate or exploratory committee established for an office to be elected at a municipal election, the statement shall be filed on the seventh day preceding a regular municipal election in lieu of such date, except if the candidate's name is not eligible to appear on the ballot, in which

case such statement shall not be required, (ii) in the case of a town committee, the statement shall be filed on the seventh day preceding each municipal election in addition to such date, (iii) in the case of a candidate committee in a state election that is required to file any supplemental campaign finance statements pursuant to subdivisions (1) and (2) of subsection (a) of section 9-712, such supplemental campaign finance statements shall satisfy the filing requirement under this subdivision, and (iv) in the case of a candidate committee established by a candidate whose name is not eligible to appear on the ballot, such statement shall not be required, and (C) if the committee has made or received a contribution or expenditure in connection with any other election, a primary or a referendum, on the seventh day preceding the election, primary or referendum, except that in the case of a candidate committee in a primary that is required to file statements pursuant to subdivisions (1) and (2) of subsection (a) of section 9-712, such statements shall satisfy the filing requirement under this subdivision. The statement shall be complete as of eleven fifty-nine o'clock p.m. of the last day of the month preceding the month in which the statement is required to be filed, except that for the statement required to be filed on the seventh day preceding the election, primary or referendum, the statement shall be complete as of eleven fifty-nine o'clock p.m. of the second day immediately preceding the required filing day. The statement shall cover a period to begin with the first day not included in the last filed statement. In the case of a candidate committee, the statement required to be filed in January shall be in lieu of the statement formerly required to be filed within forty-five days following an election.

...

(c) (1) Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to: (A) An itemized accounting of each contribution, if any, including the full name and complete address of each contributor and the amount of the contribution; (B) *an itemized accounting of each expenditure, if any, including the full name and complete address of each payee, including secondary payees whenever the primary or principal payee is known to include charges which the primary payee has already paid or will pay directly to another person, vendor or entity, the amount and the purpose of the expenditure, the candidate supported or opposed by the expenditure, whether the expenditure*

is made independently of the candidate supported or is an in-kind contribution to the candidate, and a statement of the balance on hand or deficit, as the case may be; (C) an itemized accounting of each expense incurred but not paid, provided if the expense is incurred by use of a credit card, the accounting shall include secondary payees, and the amount owed to each such payee; (D) the name and address of any person who is the guarantor of a loan to, or the cosigner of a note with, the candidate on whose behalf the committee was formed, or the treasurer in the case of a party committee or a political committee or who has advanced a security deposit to a telephone company, as defined in section 16-1, for telecommunications service for a committee; (E) for each business entity or person purchasing advertising space in a program for a fund-raising affair or on signs at a fund-raising affair, the name and address of the business entity or the name and address of the person, and the amount and aggregate amounts of such purchases; (F) for each individual who contributes in excess of one hundred dollars but not more than one thousand dollars, in the aggregate, to the extent known, the principal occupation of such individual and the name of the individual's employer, if any; (G) for each individual who contributes in excess of one thousand dollars in the aggregate, the principal occupation of such individual and the name of the individual's employer, if any; (H) for each itemized contribution made by a lobbyist, the spouse of a lobbyist or any dependent child of a lobbyist who resides in the lobbyist's household, a statement to that effect; and (I) for each individual who contributes in excess of four hundred dollars in the aggregate to or for the benefit of any candidate's campaign for nomination at a primary or election to the office of chief executive officer or a slate or town committee financing the nomination or election or a candidate for chief executive officer of a town, city or borough, a statement indicating whether the individual or a business with which he is associated has a contract with said municipality that is valued at more than five thousand dollars. Each treasurer shall include in such statement (i) an itemized accounting of the receipts and expenditures relative to any testimonial affair held under the provisions of section 9-609 or any other fund-raising affair, which is referred to in subsection (b) of section 9-601a, and (ii) the date, location and a description of the affair, except that a treasurer shall not be required to include the name of any individual who has purchased items at a fund-raising

affair or food at a town fair, county fair or similar mass gathering, if the cumulative value of items purchased by such individual does not exceed one hundred dollars, or the name of any individual who has donated food or beverages for a meeting. A treasurer shall not be required to report or retain any receipts or expenditures related to any de minimis donations described in subdivision (17) of subsection (b) of section 9-601a.

10. General Statutes § 9-702 provides:

(a) There is established a Citizens' Election Program under which (1) the candidate committee of a major party candidate for nomination to the office of state senator or state representative in 2008, or thereafter, or the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer in 2010, or thereafter, may receive a grant from the Citizens' Election Fund for the candidate's primary campaign for said nomination, and (2) the candidate committee of a candidate nominated by a major party, or the candidate committee of an eligible minor party candidate or an eligible petitioning party candidate, for election to the office of state senator or state representative at a special election held on or after December 31, 2006, or at a regular election held in 2008, or thereafter, or for election to the office of Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer in 2010, or thereafter, may receive a grant from the fund for the candidate's general election campaign for said office.

(b) Any such candidate committee is eligible to receive such grants for a primary campaign, if applicable, and a general election campaign if (1) the candidate certifies as a participating candidate under section 9-703, (2) the candidate's candidate committee receives the required amount of qualifying contributions under section 9-704, (3) the candidate's candidate committee returns all contributions that do not meet the criteria for qualifying contributions under section 9-704, (4) the candidate agrees to limit the campaign expenditures of the candidate's candidate committee in accordance with the provisions of subsection (c) of this section, and (5) the candidate submits an application and the commission

approves the application in accordance with the provisions of section 9-706.

(c) A candidate participating in the Citizens' Election Program shall limit the expenditures of the candidate's candidate committee (A) before a primary campaign and a general election campaign, to the amount of qualifying contributions permitted in section 9-704 and any personal funds provided by the candidate under subsection (c) of section 9-710, (B) for a primary campaign, to the sum of (i) the amount of such qualifying contributions and personal funds that have not been spent before the primary campaign, and (ii) the amount of the grant for the primary campaign authorized under section 9-705, and (C) for a general election campaign, to the sum of (i) the amount of such qualifying contributions and personal funds that have not been spent before the general election campaign, (ii) any unexpended funds from any grant for a primary campaign authorized under section 9-705, and (iii) the amount of the grant for the general election campaign authorized under section 9-705. The candidate committee of a minor or petitioning party candidate who has received a general election campaign grant from the fund pursuant to section 9-705 shall be permitted to receive contributions in addition to the qualifying contributions subject to the limitations and restrictions applicable to participating candidates for the same office, provided such minor or petitioning party candidate shall limit the expenditures of the candidate committee for a general election campaign to the sum of the qualifying contributions and personal funds, the amount of the general election campaign grant received and the amount raised in additional contributions that is equivalent to the difference between the amount of the applicable general election campaign grant for a major party candidate for such office and the amount of the general election campaign grant received by such minor or petitioning party candidate. . . .

Analysis

11. Turning to the question here, the Complainant alleges that alleged unreported and/or untimely reported expenses incurred by the committee put the committee over what it claims was a \$270,000 expenditure limit that extended until the committee's grant was approved by the Commission on or about July 2, 2014.

12. However, the Complainant makes an incorrect reading of the deadline language concerning expenditure limits contained in General Statutes § 9-702.
13. As such, even if the Commission found that the Foley for CT did fail to timely report any or all of the expenditures as alleged by the Complainant and even if the expenditures were made in the amounts and in the manner alleged by the Complainant, such expenditures would not have put the Foley for CT candidate committee over its expenditure limit at that time, which was much higher than the \$270,000 claimed by the Complainant.
14. The Complainant is correct insofar as General Statutes § 9-702 (c) (A) does limit expenditures for gubernatorial candidates seeking a public finance grant to the \$270,000 limit of permissible contributions and candidate personal funds. However, the limit in § 9-702 (c) (A) only extends to that period “before a primary campaign and a general election campaign” commences, not when the committee receives its grant, as asserted by the Complainant.
15. Accordingly, on or about May 17, 2018, the date of the convention at which Mr. Foley was endorsed by the Republican Party, the expenditure limit increased from the \$270,000 found in § 9-702 (c) (A) to the limit found in § 9-702 (c) (B): “for a primary campaign . . . the sum of (i) the amount of such qualifying contributions and personal funds that have not been spent before the primary campaign, , and (ii) the amount of the grant for the primary campaign authorized under section 9-705.”²
16. Here, the expenditure limit for a gubernatorial primary campaign was approximately \$1.6 million.
17. Turning to the question here, the Complainant here does not allege that the Foley for CT candidate committee made expenditures in excess of the \$270,000 gubernatorial

² The candidate committee may incur expenditures up to the statutory amount, even if such candidate committee has not yet received the grant:

“The primary period begins when the convention or meeting for nominating or endorsing a candidate is held. The general election period begins on the day following the primary, or if no primary is held, on the day the party-endorsed candidate is deemed to be the nominee. During the primary and general election campaign periods, the amounts a candidate committee may spend are calculated by adding the amount of grant monies the committee *is eligible to receive* and any unspent qualifying contributions or unspent personal funds provided by the candidate.”

Understanding Connecticut Campaign Finance Laws: A Guide for 2018 Statewide Office and General Assembly Candidates Participating in the Citizens' Election Program (Connecticut State Elections Enforcement Commission. Hartford, Connecticut) June 2018”

expenditure limit prior to being endorsed by the Republican Party at its convention on or about May 17, 2014.

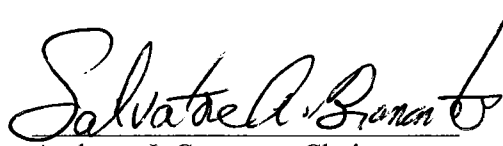
18. Moreover, the Complainant here also does not allege that the Foley for CT candidate committee made expenditures in excess of the approximately \$1.6 million gubernatorial primary expenditure limit.
19. Accordingly, the Commission cannot conclude under these allegations that the Foley for CT candidate committee exceeded any expenditure limit enumerated in General Statutes § 9-702.
20. Considering the aforesaid, this matter should be dismissed.

ORDER

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

That the matters are dismissed.

Adopted this 19th day of June, 2019 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission *Vice-Chair*
Salvatore Bramante

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