

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by the Campaign Disclosure and Audit Unit of the State
Elections Enforcement Commission

RESPONDENT:

File No. 2014-198NF

Lorraine A. Franco
42 Montgomery Road
Northford, CT 06472

Final Decision

This matter was heard as a contested case on December 1, 2015 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 Ryan M. Burns appeared on behalf of the State of Connecticut and the Respondent, Lorraine A. Franco, did not appear. 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. Ajello was designated as Hearing Officer for the hearing on December 1, 2015, at a regular meeting held on October 20, 2015 of the State Elections Enforcement Commission (hereinafter "Commission").
2. The Nursing Home Industry Political Action Committee ("NHI-PAC") is an ongoing political committee registered with the Commission. The committee's registration statement indicates that its purpose is to make contributions and expenditures to or for the benefit of candidates for Statewide or General Assembly office. The Respondent was the treasurer of record during the time period when the filing referenced within this decision was due.
3. Commission staff creates and publishes filing calendars for committees, including a 2014 Filing Calendar for Ongoing Political Committees. Such filing calendars are mailed to new treasurers, available on the Commission website, are referenced in the Commission's guidebooks, and also may be mailed to current treasurers upon request. The filing calendars set forth the type of filing, the filing deadlines and the period covered for each filing. The dates in the filing calendar are established by General Statutes § 9-608.
4. General Statutes § 9-608 (a) (1) 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,(B) **on the seventh day preceding each regular state election**.... 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....” (Emphasis added).

5. 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. (2) In the case of any such statement or certification that is required to be filed with the State Elections Enforcement Commission, the commission shall, not later than ten days 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 twenty-one days after such notice, the person is in violation of section 9-603, 9-604 or 9-608.”
6. On or before October 28, 2014, the Respondent was required to file a financial disclosure statement on behalf of NHI-PAC covering through October 26, 2014 per General Statutes § 9-608 (a) (1) (B). She did not.
7. On November 7, 2014, Commission staff sent a letter (a “21 day warning letter”) to the Respondent, by certified mail, return receipt requested, stating that the Respondent had failed to file a financial disclosure statement for the period ending on October 26, 2014 that was due on October 28, 2014. The letter imposed a \$100.00 late fee and requested that she file the statement within 21 days. The letter warned that if the Respondent did not submit the filing within 21 days, the Commission may order a public hearing and she could be subject to a civil penalty of up to \$2,000.00 per violation.
8. On January 5, 2015, Commission staff sent a letter to the Respondent stating that the Respondent had failed to timely file the disclosure statement from her that was due on October 28, 2014. The letter explained that the Respondent was subject to a civil penalty between \$200.00 and \$2,000.00 for this delinquent filing but that she could avoid further enforcement of the matter if she “FORWARD THE DELINQUENT REPORT AND A PAYMENT IN THE AMOUNT \$1,300.00” by January 26, 2015. This letter explained that “[t]he increased demand amount is based upon [the Respondent’s] previous delinquent filings: 2012-021NF, 2012-061NF, 2012-183NF, 2012-226NF, and 2015-035NF.
9. On January 9, 2015, the Commission received a SEEC Form 20 Itemized Campaign Finance Disclosure Statement submitted by the Respondent, covering the period starting on October 1, 2014 through December 31, 2014.
10. On October 27, 2015, Commission staff sent notice of a December 1, 2015 hearing on this matter to the Respondent, by first-class mail with delivery confirmation tracking and receipt and by certified mail and regular mail. The notice was signed for at the

Respondent's address on October 30, 2015 at 11:32 a.m. in Northford, Connecticut 06472, and the signature appears to read Lorraine Franco.

11. The Respondent did not attend the December 1, 2015 hearing.
12. It is concluded that the Respondent violated General Statutes § 9-608 by failing to timely file a financial disclosure statement by October 28, 2014.
13. Evidence was presented that Commission staff was persistent and rigorous in its efforts to contact the Respondent about the delinquent filing.
14. Evidence was submitted indicating that the Respondent in the present matter was also a respondent in several previous non-filing matters, including SEEC File Nos. 2012-061NF, 2012-226NF, & 2013-035NF, and was informed that these offenses would be considered as prior violations and would result in an increase in any settlement demands for any subsequent violations.
15. 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).
16. 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."
17. 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).
18. 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.
19. 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.”

20. It was recommended that the Commission consider the following as mitigating circumstances per § 9-7b-48, Regs., Conn. State Agencies: (1) the Respondent had filed the October 28, 2014 statement by the date of the hearing, showing good faith in attempting to comply; (2) the filing submitted showed minimal financial activity (zero contributions received, \$107.59 expenses paid for the period of October 1, 2014 through December 31, 2014).
21. It was recommended that the Commission consider the following as aggravating circumstances per § 9-7b-48, Regs., Conn. State Agencies: (1) the October 28, 2014 filing was filed more than 70 days late; (2) the Respondent has a previous history of similar acts or omissions; and (3) Commission staff made diligent efforts to contact the Respondent about the missed filings.
22. In consideration of the factors listed above, it was recommended that the Commission assess a civil penalty against the Respondent in the amount of \$1,000.00 for this violation of General Statutes § 9-608.

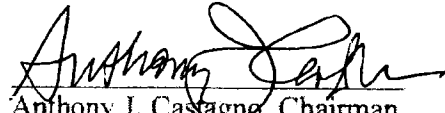
The following Order is adopted on the basis of these findings and conclusions:

ORDER


IT IS HEREBY ORDERED THAT:

The Respondent shall pay a civil penalty in the amount of \$1,000.00, payable to the State Elections Enforcement Commission, within 30 days of notice of this decision, for violation of General Statutes § 9-608, pursuant to General Statutes § 9-7b (a) (2).

Adopted this 10th day of February, 2016.


Anthony J. Castagno, Chairman
By Order of the Commission

I certify the preceding final decision was sent to Lorraine A. Franco, 42 Montgomery Road, Northford, CT 06472, first-class mail with delivery confirmation tracking and receipt and certified mail and regular mail on February 23, 2016.


Clerk of the Commission