

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Danelle Feeley
Town of East Haven

File No. 2015-122

AGREEMENT CONTAINING A CONSENT ORDER

This Agreement by and between Jan Lougal, Town of East Haven, 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. Complainant Danelle Feeley of East Haven filed this complaint on September 21, 2015 alleging that a press release sent to a New Haven newspaper by the public relations firm Michael J. London & Associates did not have an attribution identifying that the candidate committee had paid for the communication or that the candidate had approved the message. The public relations firm, Michael London & Associates, purportedly had worked on behalf of the candidate committee for Michael Speer, a Democratic Party candidate for the mayoral office in East Haven, to perform functions related to communications for the candidate committee. The complainant named Jan Lougal, treasurer for the *Speer for Mayor* candidate committee, as a respondent in the matter.
2. The press release that the London firm issued on September 17, 2015, quoted the candidate and included his call for debates with his opponent. The press release also provided contact information for the public relations firm. Upon further investigation, however, it became apparent that the public relations firm had not been compensated for the services that it provided to the candidate committee. On December 29, 2015, after the investigation of this complaint turned to the matter of whether the firm was paid for the services that it rendered to the candidate committee, the firm received a payment totaling \$1,276.20, paid via two cashier's checks. The cashier's checks listed the payer as "Michael Speer." In its January 10, 2016 quarterly campaign finance disclosure statement, the *Speer for Mayor* candidate committee reported that the candidate, Michael Speer, had paid \$1,276.20 to London & Associates, for which he was not seeking reimbursement from the committee.¹

¹ See SEEC Form 20 – Itemized Campaign Finance Disclosure Statement: January 10 report (*Speer for Mayor*, Jan. 11, 2016) (reflecting candidate's payment of \$1,276.20 to public relations firm on Dec. 29, 2015).

3. General Statutes § 9-601a defines “contribution” as “anything of value . . . made to promote the success . . . of any candidate seeking . . . election . . .” General Statutes § 9-601b similarly defines “expenditure” as “anything of value . . . made to promote the success . . . of any candidate seeking . . . election . . .” General Statutes § 9-601b (a) also includes within the definition of “expenditure:”

Any communication that (A) refers to one or more clearly identified candidates, and (B) is broadcast . . . via the Internet . . . or sent by mail;

4. General Statutes § 9-613 (a) prohibits a business entity from making contributions to a candidate committee.² General Statutes § 9-613 (g) does allow business entities to make “independent expenditures,”³ but the General Assembly strictly limited circumstances that would qualify an expenditure as “independent.”⁴ In addition, General Statutes § 9-622 (5) prohibits a person, which would include a business entity,⁵ from defraying costs for the promotion of a candidate without information the treasurer of a benefitting candidate committee.⁶
5. All candidate committees, including municipal candidate committees, are required to enter into pre-performance agreements with service providers where the expected payment will exceed \$100.⁷ In addition, treasurers must maintain contemporaneous,

² See General Statutes § 9-613 (a) (prohibiting business-entity contributions to promote candidate).

³ See General Statutes § 9-613 (g) (authorizing business entities to make “independent expenditures”).

⁴ See General Statutes § 9-601c (b) (creating rebuttal presumptions related to what renders expenditures not independent).

⁵ See General Statutes § 9-601 (10) (defining “person” to include wide range of business organizations as well as “any other legal entity”).

⁶ See General Statutes § 9-622 (5) (designating defrayal of costs as “illegal practice”). The statute states, in relevant part:

(5) Any person who, directly or indirectly, pays, gives, contributes or promises any money or other valuable thing to defray or towards defraying the cost or expenses of any campaign, primary, referendum or election to any person, committee, company, club, organization or association, other than to a treasurer . . .

Id.

⁷ See Regulations, Conn. State Agencies, § 9-607-1 (a) (State Elections Enforcement Comm’n) (imposing additional reporting requirements on committee engaging staff or advisors). The regulation states in relevant part:

[I]n order to substantiate any payment for services of campaign or committee staff, or campaign or committee services of attorneys, accountants, consultants, or other professional persons for campaign activities, the campaign treasurer shall maintain internal records, including but not limited to:

1. a written agreement, signed before any work or services for which payment in excess of \$100 is sought is performed, which sets forth (i) the nature and duration of the fee arrangement and (ii) a description of the scope of the work to be performed or services to be rendered; and
2. contemporaneous records and/or invoices created by the close of the reporting period but in no event later than the date of the primary or election to which the

detailed documentation of the services provided under the contract.⁸ The treasurer is required to authorize all expenditures by the committee, and all expenditures by the committee must be paid by the candidate committee via a check or debit/credit card issued in the name of the committee.⁹ The candidate may pay expenses of the committee using his own money, but he must report the payment to his candidate committee's treasurer within the reporting period that he made the payment and must simultaneously indicate whether he will seek reimbursement from the committee.¹⁰

6. General Statutes § 9-621 requires a candidate committee to include the statement "paid for by" and the name of the committee and treasurer, as well as the statement "approved by" and the name of the candidate, on all communications paid for by the candidate committee.
7. The candidate committee utilized professional services from a public relations firm without entering into a pre-performance contract as required under Commission regulations. There was no attempt by the candidate committee to pay for the services rendered by the public relations firm until this complaint was filed. Once the complaint was filed, the candidate paid for the services rendered by the public relations firm out of his own funds.
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. In this case, the candidate committee failed to include the proper attribution on the press release that it sent to newspapers in violation of General Statutes § 9-621. The

expenditure relates, which set forth the nature and detail of the work performed or services rendered.

Id.
⁸ *Id.*

⁹ See General Statutes § 9-607 (a) (requiring treasurer to authorize expenditures of committee); General Statutes § 9-607 (d) (requiring treasurer to pay expenditures on behalf of committee); and General Statutes § 9-607 (e) (requiring payment of committee's obligations through check or debit or credit card).

¹⁰ See General Statutes § 9-607 (k) (allowing candidate to make payments on behalf of candidate committee).

candidate committee also failed to enter into a pre-performance agreement with the public relations firm that created and distributed the press release on behalf of the committee.

11. 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.

12. 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.

13. 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 Jan Lougal agrees to pay a civil penalty of \$700 and agrees that in the future she will strictly adhere to the requirements to include the proper disclaimers on all communications paid for by the candidate committee and will also obtain pre-performance contracts with service providers as required by Connecticut's campaign finance statutes.

The Respondent

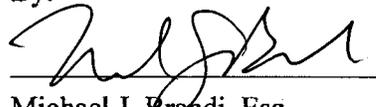
For the State of Connecticut

By:



Jan Lougal
39 Elm Street
East Haven, CT 06512

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:

October 4, 2018

Dated:

10/11/18

Adopted this 1th day of October, 2018 at Hartford, Connecticut by vote of the Commission.



~~Anthony J. Castagno~~, Chairman Vice
By Order of the Commission

SALVATORE A. BRAMANTE