

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Joel Gonzalez, Bridgeport File No. 2015-123
In the Matter of a Complaint by Joel Gonzalez & Wilkins Ramos, Bridgeport File No. 2015-124

FINDINGS AND CONCLUSIONS

The above Complainants brought these matters pursuant to Connecticut General Statutes § 9-7b, alleging various improprieties associated with the "Re-elect Bill Finch" candidate committee during the September 2015 Democratic Primary for Mayor in the City of Bridgeport.

After an investigation of the Complaint, the Commission makes the following findings and conclusions:

1. At all times relevant to the instant Complaint, "Re-elect Bill Finch" was a candidate committee organized to fund the campaign of Bill Finch for Mayor of Bridgeport.
2. On or about September 16, 2015 a primary was held in the City of Bridgeport for the Democratic nomination to various municipal offices in the November General Election.
3. In two separate, but overlapping complaints, the Complainants made separate and distinct allegations concerning the activities of either volunteers and/or the treasurer of the "Re-elect Bill Finch" candidate committee or associated individuals during the period leading up to the September 16, 2015 Democratic Primary.
4. In Count One, the Complainants allege that Maria Hernandez and Lydia Martinez, failed to properly follow the prescriptions of General Statutes § 9-140 (k) in the handling of absentee ballot applications for the September 16, 2015 Democratic Primary.
5. In Count Two, the Complainants allege that Maria Hernandez, in the course of a voter registration drive, forced electors to register to vote by falsely claiming that the individuals would lose food stamp benefits if they refused.

6. In Count Three, the Complainants allege that “Re-elect Bill Finch” treasurer Marissa Donnelly improperly compensated volunteers whose sole job it was to distribute absentee ballot applications, in violation of General Statutes § 9-140 (j).
7. In Count Four, the Complainants allege that treasurer Marissa Donnelly failed to pay “Re-elect Bill Finch” workers and falsely reported that she did.
8. In Count Five, the Complainants allege that Respondent Donnelly allowed campaign worker Erick Amado to perform duties specifically reserved for the treasurer.

COUNT ONE: Improper Distribution of Absentee Ballot Applications

9. The Complainants here allege that Maria Hernandez and Lydia Martinez administered an absentee ballot operation ahead of the September 16, 2015 primary and failed to follow the prescriptions of General Statutes § 9-140 (k) in the handling of the absentee ballot applications.
10. General Statutes § 9-140 (k) concerns the registration and record-keeping requirements of any person who seeks to distribute five or more absentee ballot applications in any primary, election, or referendum and provides:
 - (k) (1) A person shall register with the town clerk before distributing five or more absentee ballot applications for an election, primary or referendum, not including applications distributed to such person’s immediate family. Such requirement shall not apply to a person who is the designee of an applicant.
 - (2) Any person who distributes absentee ballot applications shall maintain a list of the names and addresses of prospective absentee ballot applicants who receive such applications, and shall file such list with the town clerk prior to the date of the primary, election or referendum for which the applications were so distributed. Any person who distributes absentee ballot applications and receives an executed application shall forthwith file the application with the town clerk.
11. Specifically, the Complainants allege that Complainant Ramos was a campaign worker for the “Re-elect Bill Finch” campaign and that his duties were to distribute absentee ballot applications. The Complainants assert that they also spoke with Kiara Rivera, who was also a campaign worker with duties similar to Complainant Ramos.

12. The Complainants allege that at no time were they informed specifically of the requirements under General Statutes § 9-140 (k) in the performance of distributing absentee ballot applications.
13. The Complainants allege that either/both Respondent Hernandez and/or Respondent Martinez would drive Mr. Ramos and/or Ms. Rivera to the town clerk's office to sign out absentee ballot applications and then either Respondent Hernandez and/or Respondent Martinez would take possession of said applications. The Respondents would then give Mr. Ramos and/or Ms. Rivera small batches of absentee ballot applications to distribute. If the applications were filled out and returned to Mr. Ramos and/or Ms. Rivera, they were instructed to turn those applications in to Respondent Hernandez and/or Respondent Martinez who would themselves get the applications back to the Office of the Town Clerk.
14. The Complainants allege that they acquired a copy of the records concerning Mr. Ramos' and Ms. Rivera's application distributions from the Town Clerk, but that neither Mr. Ramos nor Ms. Rivera could not be sure if the records of the registration of applications and the distribution logs associated with them were accurate.
15. The Respondents here were cooperative with the instant investigation and generally denied that anything associated with their activities was impermissible. They assert that they met all of the requirements of General Statutes § 9-140 (k) and that the Complainants' allegations are baseless.
16. Turning to the issues associated with Count One, the Commission notes that as an initial matter, the fact that Respondents Hernandez and Martinez organized the applications and paperwork on Mr. Ramos' and Ms. Rivera's behalf is not a *per se* violation of General Statutes § 9-140 (k).
17. The primary purpose of § 9-140 (k) is assure that there is an accurate record of which person distributed which absentee ballot application. So long as the information that was reported to the Town Clerk is accurate—in this instance, that Mr. Ramos and Ms. Rivera in fact distributed the absentee ballot applications associated with them—the statute does not require that they handle all of the registration and paperwork requirements personally.
18. The main question for the investigation here then was first whether the applications associated with Mr. Ramos and Ms. Rivera were accurately reported.
19. Unfortunately, Mr. Ramos—both a complainant here and a primary fact witness—and Ms. Rivera—a primary fact witness—were unreachable during the course of this investigation. Commission investigators made significant efforts over an expansive time period to reach these witnesses, including but not limited to multiple contacts via telephone, letter, electronic

mail—not only to the witnesses, but to many other contacts associated with the witnesses. Commission investigators also made site visits to addresses around Bridgeport that may yield some contact with the witnesses.¹ After a substantial commitment of Commission resources, the investigation was unable to include interviews with these important individuals.

20. Nevertheless, the Commission’s investigation made considerable attempts to find evidence substantiating the allegations, including attempting to find other witnesses and/or documentary evidence.
21. Additionally, the Commission’s investigation conducted a a full and thorough review of the absentee ballot application records associated with the “Re-elect Bill Finch” candidate committee, both internal and those records submitted to the Town Clerk.
22. The logs at the Town Clerk’s Office reflect that approximately 1100 applications were distributed, all of which were logged per General Statutes § 9-140 (k) (1) and any of those applications distributed were reflected in distribution logs submitted on or about September 15, 2015, as required by General Statutes § 9-140 (k) (2). No other records were discovered in the course of the investigation to establish any liability issues related the responsibility for recording and tracking the distribution of absentee ballot applications ahead of the September 16, 2015 Primary.
23. Considering the aforesaid, the Commission concludes that the evidence is insufficient to find that it is more likely than not that any violation of General Statutes § 9-140 (k) occurred as alleged.
24. Accordingly, Count One should be dismissed.

COUNT TWO: Inducing Registration by Fraud

25. In Count Two, the Complainant’s allege that Mr. Ramos witnessed Respondent Maria Hernandez helping conduct voter registration drives and “on multiple occasions” threatening reluctant individuals that if they failed to register to vote, they would lose food stamp benefits.
26. This type of allegation is one of first impression for the Commission. It is possible that this activity could trigger liability under two criminal statutes for which the Commission has investigatory jurisdiction, General Statutes §§ 9-357 and 9-364a.

¹ Commission investigators were able to determine with reasonable probability that Ms. Rivera may have relocated outside the continental United States.

27. General Statutes § 9-357 reads:

Any person who fraudulently procures himself or another to be registered as an elector shall be fined not more than five hundred dollars or imprisoned not more than one year or be both fined and imprisoned.

28. General Statutes § 9-364a reads, in pertinent part:

Any person who influences or attempts to influence by force or threat the vote, or by force, threat, bribery or corrupt means, the speech, of any person in a primary, caucus, referendum convention or election; or wilfully and fraudulently suppresses or destroys any vote or ballot properly given or cast or, in counting such votes or ballots, wilfully miscounts or misrepresents the number thereof; and any presiding or other officer of a primary, caucus or convention who wilfully announces the result of a ballot or vote of such primary, caucus or convention, untruly and wrongfully, shall be guilty of a class C felony. (Emphasis added.)

29. Respondent Hernandez generally denies the allegation here.

30. Considering that Complainant Ramos is also the only alleged witness to the alleged behavior and considering—as discussed in Count One, above—that he has failed to participate in the investigation generated by his Complaint, despite significant efforts by Commission staff, the Commission declines to consider this allegation further.

31. Accordingly, Count Two should be dismissed.

COUNT THREE: Improper Payments for Distribution of Absentee Ballot Applications

32. In Count Three, the Complainants allege facts suggesting that Kiara Rivera was paid by the “Re-elect Bill Finch” candidate committee solely to distribute absentee ballot applications, which is an impermissible expenditure per General Statutes § 9-140 (j).

33. General Statutes § 9-140 (j) reads:

No person shall pay or give any compensation to another and no person shall accept any compensation solely for (1) distributing absentee ballot

applications obtained from a municipal clerk or the Secretary of the State or (2) assisting any person in the execution of an absentee ballot.

34. The factual recitation in the Complaint alleges that Kiara Rivera was a paid worker for the “Re-elect Bill Finch” candidate committee and that her sole responsibility was the distribution of absentee ballot applications.
35. The campaign finance reports filed by “Re-elect Bill Finch” candidate committee confirm that Kiara Rivera was a paid campaign worker for the committee.
36. Respondent Treasurer Marissa Donnelly was cooperative with the instant investigation and generally denies that any campaign worker was paid solely to distribute absentee ballot applications.
37. Considering that Ms. Rivera was the only alleged witness to the alleged behavior and considering —as discussed in Count One, above—that she has been unreachable despite significant efforts by Commission staff, the Commission declines to consider this allegation further.
38. Accordingly, Count Three should be dismissed.

COUNT FOUR: Misreporting Payments

39. In Count Four, the Complainants allege that Wilkins Ramos and Kiara Rivera worked and reported hours for which they were not accurately compensated by the “Re-elect Bill Finch” candidate committee.
40. When a payment is promised by a committee for a good or a service but not immediately paid, and such good or service is rendered for the committee, the value of that good or service constitutes a contribution to the committee by the person from whom the good or service was obtained and must be reported as such.
41. General Statutes § 9-608 reads, 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

...

(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; . . .

42. More specifically, the Complainants allege that Mr. Ramos and Ms. Rivera would report their time to Respondent Maria Hernandez would often cut their time by 1-2 hours when drafting their timesheets for Treasurer Marissa Donnelly.
43. Respondent Hernandez generally denies the allegation and asserts that all campaign workers were compensated for the actual work that they did.
44. Marissa Donnelly generally denies the allegation and asserts that the candidate committee paid each campaign worker based on the timesheets prepared by Ms. Hernandez and Mr. Erick Amado and that such payment was accurately reported in their periodic campaign finance statements.
45. As with Counts Two and Three, Considering that Complainant Ramos and Ms. Rivera are the sole alleged fact witnesses to the alleged behavior and considering—as discussed above—they have been unreachable despite significant efforts by Commission staff, the Commission declines to consider this allegation further.
46. Accordingly, Count Four should be dismissed.

COUNT FIVE: Impermissibly Acting As Treasurer

47. In Count Five, the Complainants allege that Respondent Erick Amado, who was a “Re-elect Bill Finch” campaign worker, may have impermissibly performed the duties of the treasurer Marissa Donnelly.
48. General Statutes § 9-604 reads, in pertinent part:

(a) Each candidate for a particular public office or the position of town committee member shall form a single candidate committee for which he shall designate a treasurer and a depository institution situated in this state as the depository for the committee's funds and shall file a committee statement containing such designations, not later than ten days after becoming a candidate, with the proper authority as required by section 9-603. The candidate may also designate a deputy treasurer on such committee statement. The treasurer and any deputy treasurer so designated shall sign a statement accepting such designation which the candidate shall include as part of, or file with, the committee statement.

...

49. General Statutes § 9-606 reads, in pertinent part:

(a) The treasurer of each committee shall be responsible for (1) depositing, receiving and reporting all contributions and other funds in the manner specified in section 9-608, (2) making and reporting expenditures, (3) reporting expenses incurred but not yet paid, (4) filing the statements required under section 9-608, and (5) *keeping internal records of each entry made on such statements*. The treasurer of each committee shall deposit contributions in the committee's designated depository not later than twenty days after receiving them. The treasurer of each political committee or party committee which makes a contribution of goods to another committee shall send written notice to the treasurer of the recipient committee before the close of the reporting period during which the contribution was made. The notice shall be signed by the treasurer of the committee making the contribution and shall include the full name of such committee, the date on which the contribution was made, a complete description of the contribution and the value of the contribution. Any dispute concerning the information contained in such notice shall be resolved by the treasurer of the recipient committee. Such resolution shall not impair in any way the authority of the State Elections Enforcement Commission under section 9-7b. The treasurer of the recipient committee shall preserve each such notice received for the period prescribed by subsection (f) of section 9-607.

...

(d) No person shall act as a 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.)

50. General Statutes § 9-607 reads, in pertinent part:

(a) No financial obligation shall be incurred by a committee unless authorized by the treasurer, except that certain expenditures of a candidate's personal funds may be reimbursed as provided in subsection (k) of this section

...

(d) Except as provided in subsections (j) and (k) of this section, no payment in satisfaction of any financial obligation incurred by a committee shall be made by or accepted from any person other than the treasurer and then only according to the tenor of an authorization issued pursuant to subsection (a) of this section.

...

(f) The treasurer shall preserve all internal records of transactions required to be entered in reports filed pursuant to section 9-608 for four years from the date of the report in which the transactions were entered. Internal records required to be maintained in order for any permissible expenditure to be paid from committee funds include, but are not limited to, contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or other lawful purpose of the expenditure. If a committee incurs expenses by credit card, the treasurer shall preserve all credit card statements and receipts for four years from the date of the report in which the transaction was required to be entered. If any checks are issued pursuant to subsection (e) of this section, the treasurer who issues them shall preserve all cancelled checks and bank statements for four years from the date on which they are issued. If debit card payments are made pursuant to subsection (e) of this section, the treasurer who makes said payments shall preserve all debit card slips and bank statements for four years from the date on which the payments are made. In the case of a candidate committee, the treasurer or the candidate, if the candidate so requests, shall preserve all internal records, cancelled checks, debit cards slips and bank statements for four years from the date of the last report required to be filed under subsection (a) of section 9-608.

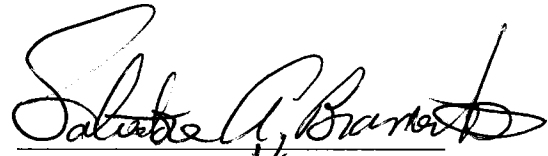
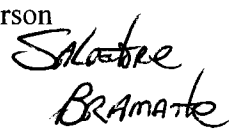
51. Specifically, the Complainants alleged that Respondent Amado was “Handling payroll” and “Keeping time sheets” and that such duties should have been specifically reserved to the treasurer.
52. The actions alleged to have been performed by Mr. Amado here generally fall under the treasurer’s responsibility under General Statutes §§ 9-606 (a) (4) and 9-607 (f) to keep internal records of any transactions required to be reported in the statements required by § 9-608.
53. However, neither §§ 9-606 (a) (4), 9-607 (f) nor any other statute or regulation in Title 9 require that such internal records be specifically *created* by only the treasurer. That is, while the treasurer is the sole fiduciary of the committee and has certain non-delegable duties (e.g., authorizing expenditures), the Commission has never interpreted these statutes so narrowly as to hold that a treasurer may not rely on staff to help make and keep such internal records.
54. Accordingly, as an initial matter, the Commission concludes that, assuming the allegations to be true, it is not a per se violation by a treasurer to delegate the tasks claimed by the Complainants.
55. As such, the only remaining question in this matter is whether Treasurer Marissa Donnelly delegated any duties specifically reserved to her and/or Mr. Amado performed duties specifically reserved for the treasurer. After a full review of the records of the “Re-elect Bill Finch” candidate committee, the investigation found no evidence that such activity occurred.
56. According, Count Five should be dismissed.

ORDER

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

That the matter is dismissed.

Adopted this 16th day of May, 2018 at Hartford, Connecticut.


Anthony J. Castagna Chairperson
By Order of the Commission 
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