

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Linda Bonaiuto-O'Hara, Middletown

File No. 2015-147

FINDINGS AND CONCLUSIONS

The Complainant, Linda Bonaiuto-O'Hara, brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging Respondent Nancy Conaway-Raczka, failed to report and/or improperly reported the municipal contractor status of individuals that made contributions to the Drew 2015 candidate committee in violation of General Statutes § 9-608 (c) (1) (i).¹ As detailed hereinafter, the Commission concludes that the evidence does not support these allegations and that this matter should be dismissed.

1. The Respondent, Nancy Conaway-Raczka, was, at all times relevant hereto, the treasurer of the Drew 2015 candidate committee.
2. The Drew 2015 candidate committee (the "Committee") was the funding vehicle for Danial Drew's 2015 campaign for Mayor of Middletown.
3. The Complainant alleges that the Respondent failed and/or improperly reported the municipal contractor status of individuals that made contributions to the Committee.
4. General Statutes § 9-608 (c) (1) provides, in pertinent part:

Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to: . . . (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.

¹ Any allegation not specifically addressed herein is hereby dismissed as such allegations either failed to allege a violation within the Commission's jurisdiction, or such conduct, even if true, would not have amounted to violation of Connecticut's election laws.

5. The Commission has further advised that, “‘Business with which he is associated’ means the contributor is a director, officer, owner, partner, or stockholder of 5% or more of the business.” (Instructions to SEEC Form 20, Rev. May 2016).
6. The 17 separate allegations in this case can be divided into six distinct categories. Each of these categories shall be addressed herein below.

Failure to Report the Municipal Contractor Status of a Spouse

7. Of the 17 separate allegations, three are based upon the purported municipal contractor status of a spouse. Unlike the state contractor limitations applicable to candidates for General Assembly and statewide office, the municipal contractor reporting requirements do not extend to spouses of municipal contractors. Accordingly, these allegations should be dismissed.

Contributions by Admitted Municipal Contractor Associates

8. Two allegations concern contributors to the Committee that acknowledged in their contributor certification forms, that a businesses with which they were associated had contracts with the City of Middletown valued at more than \$5,000. Nevertheless These individuals made a contributions that were accepted. These contributions were reported in the Committee’s financial disclosure statements.
9. Again, unlike the state contractor limitations applicable to candidates for General Assembly and statewide office, a candidate for chief executive of a municipality may accept contributions from municipal contractors, even in excess of \$400. The law simply requires that the municipal contractor status of the contributor be reported for any contribution over \$400 in the aggregate, which was done. Accordingly, these allegations should be dismissed.

Contributions by Individuals that are Not Municipal Contractor Associates

10. One allegation concerns a contributor who is a principal of the political consulting firm The Vinci Group. There is no allegation or evidence to suggest that the political consulting firm had any contract with the City of Middletown. Accordingly, this allegation should be dismissed.

Contributions by Principals of Businesses with Municipal Contracts below the \$5000 Threshold

11. Four allegations concern contributions from individuals who were allegedly principals of the law firm Cohen, Burns, Paul, & Hard LLC (“CBPH”). The contributors admit that they are principals of the CBPH. However, evidence shows that, though CBPH performs legal services for Middletown, in no year relevant to this inquiry did CBPH ever bill the City of Middletown more than \$5,000. Accordingly, this allegation should be dismissed.

Contributions by Principals of Entities that Sought, but Failed to Obtain a Municipal Contract

12. Two allegations concern contributions from alleged principals of Conveo Energy. Evidence shows that, although the City of Middletown discussed Conveo’s proposal to install energy efficient LED lighting in Middletown schools, the plan never came to fruition and the City of Middletown never paid or was obligated to pay Conveo anything. Accordingly, this allegation should be dismissed.

Contributions by Principals of Businesses that Incorrectly Certified that their Businesses had no Municipal Contracts

13. One allegation concerns a contribution from the CEO of Greenskies Renewable Energies. Evidence shows that the contributor was asked when he made the contribution to complete an online donor certification form. On that form he was asked whether he, or a business with which he was associated, had a contract with the municipality that was valued at more than \$5,000. The donor checked the box indicating “False”.
14. The investigation into this matter reveals that, although Greenskies Renewable Energies, did not and does not have a contract with the City of Middletown, two related entities, GRE 301 Middletown LLC and GRE 302 Middletown LLC, did have power purchase agreements with the City of Middletown. The value of GRE 302 Middletown LLC’s contract with the City of Middletown in 2015 was \$39,008.12.
15. The Commission notes that, although Greenskies Renewable Energies and GRE 302 Middletown LLC are two distinct legal entities, for the purposes of Connecticut’s campaign finance laws, “corporations which are component members of a controlled group of corporations, as those terms are defined in Section 1563 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from

time to time amended, shall be deemed to be one corporation.” General Statutes § 9-601 (8).²

16. Based upon the evidence before it, the Commission finds that it is likely that Greenskies Renewable Energies and GRE 302 Middletown LLC are component parts of a controlled group corporations.
17. However, as aforementioned, the donor completed a certification form when he gave the contribution to the Committee. The certification form in this case specifically asked whether the donor, or a business with which he was associated, had a contract with the municipality valued at more than \$5,000. The donor indicated that he did not.³ There is no evidence to suggest that the Respondent knew or should have known that this representation was false.⁴ Accordingly, this allegation should be dismissed.
18. Two additional allegations concern donors whose businesses received tax abatements from the Town. While tax abatements may represent part of a municipal contract, as in the Greenskies Renewable Energy instance, both donors completed certification forms in which they deny that they had contracts with the City of Middletown.^{5,6}
19. Accordingly, because the Respondent had obtained a certification from the donors that neither they nor a business they were associated with had a contract with the municipality in

² Section 1563 of the Internal Revenue Code of 1986, as amended, details the various “parent-subsiary”, “brother-sister”, and “combined” relationships that qualify as a “controlled group of corporations.

³ While the Commission elects not to open a separate investigation into whether the CEO of Greenskies Renewable Energies violated Connecticut’s election laws by possibly misrepresenting his municipal contractor status on his certification form, the Commission notes that similar activity in the future will be deeply scrutinized.

⁴ While Connecticut’s election laws does not mandate the use of a certification form for contributions to municipal candidate committees, General Statutes § 9-608 does mandate the use of a certification form for contributions to committees supporting General Assembly and statewide candidates. That statute further provides that “[i]f a treasurer deposits a contribution based on a certification that is later determined to be false, the treasurer shall have a complete defense to any action, including but not limited to, any complaint investigated by the State Elections Enforcement Commission or any other investigation initiated by said commission, against such treasurer for the receipt of such contribution.” While this statute does not directly apply to donors to municipal candidates, it would be absurd to allow treasurers for General Assembly candidates to rely on the representations in certification forms, but not allow treasurers for municipal candidates to rely on similar certifications.

⁵ While the Commission elects not to open a separate investigation into whether the donors that had receive tax abatements violated Connecticut’s election laws by possibly misrepresenting their municipal contractor status on their certification form, the Commission notes that similar activity in the future will be deeply scrutinized.

⁶ After the complaint was filed, one of these donors submitted a corrected donor certification form indicating that they did have a municipal contract in excess of \$5,000. Upon receipt, the Respondent filed an amended financial disclosure statement reflecting that information.

excess of \$5,000, and there is no evidence to suggest that the Respondent knew or should have known that this representation was false, this allegation should be dismissed.

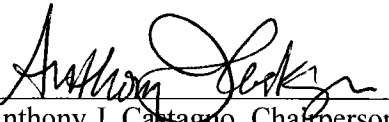
20. As none of the allegations are supported by the evidence and/or the law, this matter should be dismissed.

ORDER

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

This matter is dismissed.

Adopted this 18th day of October, 2017 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission