

SEP 09 2016

ENFORCEMENT COMMISSION

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Joseph Walkovich, Danbury

File No. 2016-002A

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Helena Abrates, of the City of Danbury, State of Connecticut (the "Respondent") and the undersigned authorized representative of the State Elections Enforcement Commission (the "Commission"), enter into this agreement as authorized by Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54.¹ In accordance with those provisions, the parties agree that:

BACKGROUND AND PARTIES

1. At all times relevant hereto, the Hat PAC (hereinafter the "Hat PAC" or the "Committee") was an ongoing political committee formed pursuant to the laws of the State of Connecticut for the purpose of making expenditures in both state and municipal elections in the State of Connecticut.
2. At all times relevant hereto, Respondent was the Treasurer of the Hat PAC.²

COUNT I

3. Complainant alleges that the Respondent Abrantes failed to properly report aggregate contributions to the Hat PAC in the Committee's financial disclosure statements.

¹ Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission's jurisdiction, relate exclusively to another Respondent, or were addressed in a prior case (*See Referral by the Campaign Disclosure and Audit Unit of the State Elections Enforcement Commission*, File 2015-112NF; *Referral by the Campaign Disclosure and Audit Unit of the State Elections Enforcement Commission*, File 2015-171NF). Accordingly, any Count relating to Respondent Abrantes not specifically addressed herein is dismissed.

² On November 30, 2015, Respondent Abrantes resigned as treasurer of the Hat PAC. Certain allegations in the complaint relate to activity of the Committee after Respondent Abrantes resigned as treasurer. Those allegations are addressed in a separate document.

4. General Statutes § 9-608 (c) (1) provides:

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.

5. The Commission has previously held that failing to report aggregate contributions is a violation of General Statutes § 9-608. *See In the Matter of a Complaint of William P. Horan, Jr., East Hartford*, File No. 2011-126.
6. A review of the financial disclosure statement the Committee was required to file on July 10, 2015, reveals that no aggregate contribution amounts were included in the reporting of for four (4) of eleven (11) contributors.
7. Accordingly, with regard to the financial disclosure statement the Respondent was required to file on behalf of the Committee on July 10, 2015, Respondent Abrantes failed to disclosure aggregate amounts of contributions, in violation of General Statutes § 9-608.
8. In the absence of aggravating factors, such as evidence that a failure to disclose aggregate contributions was intended to obscure the total amount of a contributions, the Commission has previously not found that a first instance of a violation of General Statutes § 9-608 of this type does not require a severe civil penalty. *In the Matter of a Complaint of William P. Horan, Jr., East Hartford*, File No. 2011-126.
9. Respondent Abrantes has been responsive to Commission staff in this investigation and the omission of aggregate contributions does not appear to be intentional.
10. Respondent Abrantes, has, however, been found liable twice before for violations of General Statutes § 9-608. *See In the Matter of a Referral by the Campaign Disclosure and Audit Unit of the State Elections Enforcement Commission*, File 2015-112NF; *In the Matter of a Referral by the Campaign Disclosure and Audit Unit of the State Elections Enforcement Commission*, File 2015-171NF.

COUNT II

11. Complainant alleges that the Hat PAC failed to file the financial disclosure statement due seven days preceding the November 3, 2015 election.

12. General Statutes § 9-608 (a) provides, in relevant part:

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, . . . 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, . . . [F]or 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.

13. General Statutes § 9-623 (b) provides, in relevant part:

(1) If any 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 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 [financial disclosure] 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.

....

(4) The 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.

14. The evidence shows that the Hat PAC's financial disclosure statement due seven days preceding the November 3, 2015 election was not timely filed.
15. However, a financial disclosure statement for the Hat PAC, covering that period, was filed prior to the Committee receiving notice of the missing financial disclosure statement³ or the filing of the instant Complaint.
16. Under the current law, if a treasurer files a financial disclosure statement after the date it was due, but prior to the expiration of the statutory "cure" period prescribed by General Statutes § 9-623, which must be detailed in a certified notice letter to the Respondent, the Commission lacks the statutory authority to find a violation for failure to file the financial disclosure statement.⁴
17. Accordingly, this Count should be dismissed, without prejudice.
18. However, the records of the Commission show that the Hat PAC has not paid the \$100 late fee due whenever a financial disclosure statement is not timely filed.⁵
19. Thus, while the Commission is dismissing this Count, the Respondent must pay the \$100 late fee due for failure to timely file the Hat PAC's financial disclosure statement due seven days prior to the November 3, 2015 election.

TERMS OF GENERAL APPLICATION

20. The Respondent admits to 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.

³ See General Statutes § 9-623 (b) (2).

⁴ This hole in the Commission's enforcement authority is particularly troublesome with regard to the seventh-day preceding election financial disclosure statement. The statutory "cure" period prevents the Commission from enforcing the law when a treasurer fails to file the seventh-day preceding election filing until after the election, when the disclosure is far less useful, provided the treasurer files it within the statutory "cure" window, which extends well past the election.

⁵ The statutory late fee assessed pursuant to General Statutes § 9-623 is an automatic fee, not a civil penalty, issued by the Commission pursuant to General Statutes § 9-7b (a) (2). Such fees are administratively collected independent of the Commission's enforcement authority.

21. The 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 to contest the validity of the Order entered into pursuant to this Agreement.

22. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent regarding this matter.

23. It is understood and agreed by the parties to this Agreement that the Commission will consider this Agreement at its next available meeting and, if the Commission rejects it, the Agreement will be withdrawn and may not be used as an admission by the Parties in any subsequent hearing, proceeding or forum.

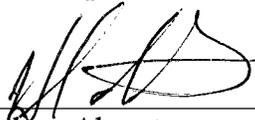
ORDER

It is hereby ordered that the Respondent shall henceforth strictly adhere to the requirements of General Statutes § 9-608.

It is further ordered that the Respondent shall pay a two hundred dollar (\$200) penalty for the violation of General Statutes § 9-608.

It is further ordered that the Respondent shall pay the one hundred dollar (\$100) late fee already due pursuant to General Statutes § 9-623.

The Respondent:



Helena Abrantes
12 Fanton Road
Danbury, CT 06810

For the State of Connecticut:

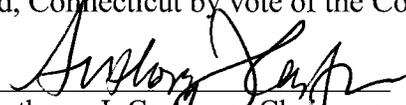
BY: 

Michael J. Branch
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT 06106

Dated: 9/1/16

Dated: 9/12/16

Adopted this 14 day of SEPT, 2016 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission