

NOV 13 2018

ENFORCEMENT COMMISSION

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Thomas Brummett,
Canterbury

File No. 2018-001A

AGREEMENT CONTAINING CONSENT ORDER

This Agreement by and between Loreen Hegan, of the Town of Canterbury, County of Windham, 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 alleged that the Canterbury Democratic Town Committee ("CDTC") violated General Statutes § 9-613, by receiving prohibited business entity contribution from the Vinci Group of Manchester, in the form of "...various campaign materials and services in support of 'the DTC' endorsed candidates in the November 2015 Canterbury Municipal Elections."**
2. **More specifically, Complainant alleged that the CDTC reported expenses incurred but not paid to the Vinci Group, for invoices dating from November 9, 2015, on its January 10, 2016 campaign finance disclosure statement in the amount of \$4,060.28. Complainant alleged that the CDTC failed to pay the aforementioned incurred expenses within the "commonly accepted forty-five (45) days period."**
3. **Additionally, Complainant asserted that, to date, the aforementioned expenses had never been paid by the CDTC. The resulting alleged business entity contribution by the Vinci Group, LLC, of goods and services pertaining to the November 2015 Canterbury municipal election in the amount of \$4,060.28, Complainant asserted, resulted in a prohibited contribution in violation of General Statutes § 9-613.**
4. **Finally, Complainant alleged that the treasurer violated § 9-606 and § 9-608 in that the \$4,060.28 was not accurately reported as an "in-kind" contribution to the CDTC from the Vinci Group, LLC.**
5. **At all times relevant to this complaint and investigation, the Vinci Group, LLC was owned by Michael Farina and Geoff Luxenberg.**
6. **This agreement and order is limited to the Respondent. Any additional potential settlements with other individual Respondents pertaining to this matter are treated under separate documents.**

7. **General Statutes § 9-601a, provides in pertinent part, that “contribution” means:**
(1) Any gift, subscription, loan, advance, payment or deposit of money or anything of value, made to promote the success or defeat of any candidate seeking the nomination for election, or election or for the purpose of aiding or promoting the success or defeat of any referendum question or the success or defeat of any political party,
8. **General Statutes § 9-601b, provides in pertinent part:**
...
(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 ...
[Emphasis added.]
9. **General Statutes § 9-606, provides 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. ...
[Emphasis added.]
10. **General Statutes § 9-613, provides in pertinent part:**
(a) No business entity shall make any contributions or expenditures to, or for the benefit of, any candidate's campaign for election to any public office or position subject to this chapter or for nomination at a primary for any such office or position, or to promote the defeat of any candidate for any such

office or position. *No business entity shall make any other contributions or expenditures to promote the success or defeat of any political party*, except as provided in subsection (b) of this section. No business entity shall establish more than one political committee. A political committee shall be deemed to have been established by a business entity if the initial disbursement or contribution to the committee is made under subsection (b) of this section or by an officer, director, owner, limited or general partner or holder of stock constituting five per cent or more of the total outstanding stock of any class of the business entity.
[Emphasis added.]

11. General § 9-622, provides that the following persons shall be guilty of illegal practices:

...
(10) *Any person who solicits, makes or receives a contribution that is otherwise prohibited* by any provision of this chapter;
[Emphasis added.]

12. **The Commission finds that Respondent, as treasurer of the CDTC, paid the Vinci Group, LLC, in the course of this matter. The payments for the 2015 consulting services provided by the Vinci Group, LLC to the CDTC were made by committee checks and paid between May 7, 2018 and May 15, 2018.**

13. **In response to this complaint, Mr. Farina indicated that his company did not intend to forgive any debt owed it the CDTC, as alleged by this complaint. Moreover, Mr. Farina's records refer to just two invoices totaling \$2,079.48, as opposed to the four expenditures totaling \$4,060.28 as reported by Respondent on behalf of the CDTC. The Vinci Group, LLC, a registered partnership in Connecticut, is a business entity pursuant to General Statutes § 9-601.**

Precedent and the Commission Application of General Statutes § 9-613

14. **Pursuant to General Statutes § 9-613, in-kind contributions from a business entity to a candidate committee are prohibited. Historically, the Commission has found that provision of "in-kind" goods and services from a business entity is generally prohibited.**

15. **By way of example, the Commission has concluded that where a business entity was limited by § 9-601a (b) (12) to the donation of \$100.00 in goods in services, the provision of goods and services valued at \$250.00, resulted in a prohibited business entity contribution under § 9-613. See *In Re "Committee to Elect Romano,"* Commission Initiated Complaint, File No. 2012-036.**

16. Furthermore, the Commission concluded in *Romano* that the Respondent violated General Statutes § 9-613, by receiving in-kind goods and services for a fundraiser from a business entity. *Id.*

The “45 Days” Rule and Expenses Incurred but Not Paid

17. The Commission has previously held that:
- Where a committee worker uses personal funds to make authorized expenditures on behalf of the committee for which reimbursement is sought, such payments are deemed to be contributions to the committee to the extent that they are not reimbursed by the committee to the worker within 45 days from the date that such expenditure was made. [Emphasis added.]*
- See In the Matter of a Complaint by Paul M Carver, New Britain, File No. 2006-137.*
18. The Commission determined in *Carver* that the “45 days rule” was “necessary in order to avoid the unintended consequence” of making an excessive contribution. The Commission has determined that, typically, if reimbursement is not sought and received within a reasonable time after an expenditure is made or incurred, then the Commission will deem that a contribution to the committee has been made and/or received. To avoid this, the Commission consistently urges that committees *timely reimburse* the candidate or committee workers for coordinated expenditures where reimbursement is sought. Finally, the Commission has concluded that a *reasonable time period is 45 days*. *See Carver.*
19. The Commission has exhibited a nuanced appreciation for the practical implementation of statutes to effectuate the purposes of the campaign finance laws when facts change otherwise permissible transactions or circumstances to prohibited transactions. *See In the Matter of a Complaint by Sheri Lepper, West Haven, File No. 2014-157* (where a town committee failed to reimburse workers for a year, which resulted in originally permissible expenses by workers becoming impermissible receipts of excessive contributions by a town committee).
20. It is from this perspective, that the Commission views the consequences of the CDTC’s failure to pay the Vinci Group, LLC until 2018, for consulting services provided by that business to the town committee in connection with the November 2, 2015 Canterbury municipal election. The Commission finds that what initially was reported by Respondent as permissible expenses incurred but not paid by a town committee, *over time and due to the lack of payment*, eventually became the receipt of contributions to the CDTC from the Vinci Group, LLC.

21. **In this instance, the Commission finds that Respondent failed, for a period of 2 years, 6 months and 9 days, to pay \$4,060.28 owed to the Vinci Group, LLC by the CDTC that were reported incurred but not paid as of November 9, 2015. As detailed herein, the Commission deems the payment of such expenses incurred within 45 days to be *reasonable and necessary* in order to avoid the unintended consequence of making or receiving a prohibited and/or excessive contribution. *See Carver and Lepper.***
22. **The Commission finds that Respondent's payment of the expenses, that are subject of this matter, was in the course of this investigation and largely the result of this complaint. The Commission found no evidence that Respondent was the subject of collection efforts by the Vinci Group to achieve satisfaction of this debt.**
23. **The Commission concludes therefore that Respondent received on behalf of the CDTC an impermissible business entity contribution in the amount of \$4,060.28 from the Vinci Group, LLC for services provided in connection with the November 2, 2015 Canterbury municipal election in violation of General Statutes § 9-613 and § 9-622 (10).**
24. **Respondent admits all jurisdictional facts and agree 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.**
25. **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 contest the validity of the Order entered into pursuant to this Agreement.**
26. **Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her concerning this matter.**
27. **It is understood and agreed by the parties to this Agreement that the Commission will consider this Agreement at its next meeting and, if the Commission rejects it, the Agreement will be withdrawn and may not be used as an admission by the Respondent in any subsequent hearing.**

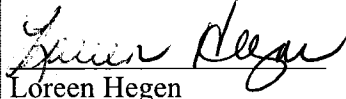
ORDER

IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of five hundred dollars (\$500.00) for his violations of General Statutes § 9-613 and § 9-622.

IT IS FURTHER ORDERED THAT Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-613 and § 9-622.

The Respondent

By:



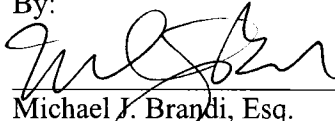
Loreen Hegen

61 Raymond School House Road
Canterbury, Connecticut

Dated: November 8, 2018

For the State of Connecticut

By:

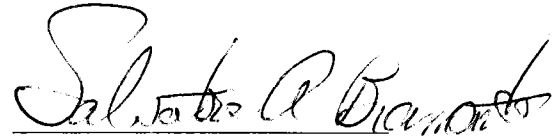


Michael J. Brandi, Esq.

Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: 11/13/18

Adopted this 14th day of November, 2018 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman

By Order of the Commission



Salvatore A. Bramante, Vice