

JUL 12 2019

ENFORCEMENT COMMISSION

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Joseph R. Romano, Jr.
Southington

File No. 2018-008B

AGREEMENT CONTAINING A CONSENT ORDER

This Agreement by and between Mark S. Miller, Town of Stratford, 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. Respondent Mark Miller served as treasurer for the candidate committee established by Tony Turner to support Turner's campaign for a seat on the Board of Estimate and Taxation in Greenwich during the 2017 municipal election cycle.
2. On August 3, 2017, candidate Turner filed a registration form with the Greenwich Town Clerk, indicating that he was exempt from forming a candidate committee in his bid to join the BET because he did not plan to receive or spend more than \$1,000 during the campaign. On September 28, 2017, Respondent amended his registration and formed a candidate committee.¹ Respondent called his committee *People First Committee* and named Mark S. Miller of Stratford as the committee's treasurer.
3. Over the course of the 2017 election cycle, the *People First Committee* spent a total of \$213,294.56.² Candidate Turner gave the candidate committee \$15,000, loaned it another \$200,000, and reported to his treasurer that he spent \$44,811.90 of his own funds to promote his candidacy. Turner did not seek reimbursement for the \$44,812 that he spent.³

¹ See SEEC Form 1 – Registration by Candidate Tony Turner (Greenwich Town Clerk, September 28, 2017) (forming candidate committee to support candidacy for Greenwich Board of Estimate and Taxation).

² See SEEC Form 20 – Itemized Campaign Finance Disclosure Statement: January 10 Filing, *People First Committee* (Jan. 9, 2018) (reflecting total expenditures during 2017 election cycle of \$213,294.56 by committee and \$44,811.90 by candidate).

³ See SEEC Form 20 – Itemized Campaign Finance Disclosure Statement: 7th Day Preceding Election, *People First Committee* (October 30, 2017) (showing expenses totaling \$44,811.90 paid by candidate for which candidate did not seek reimbursement).

4. During 2017, candidate Turner sought and received advice from the compliance unit at the Commission about how he could promote himself and other members of the Democratic slate for BET. Specifically, he asked about how he could use the funds that he had in his candidate committee and those of the other members of the BET to advance the election of all the Democratic slate's members.
5. The five other candidates running for the Democratic seats on the BET had already claimed exemptions from forming candidate committees.⁴ Four of the five Democratic candidates indicated that they planned to spend and receive less than \$1,000. One candidate claimed an exemption from forming a candidate committee on the basis that she was spending only her own money and was not planning to accept any contributions.⁵
6. Between his candidate committee, his personal funds, and his business entity, candidate Turner spent an estimated \$343,500 during the 2017 election cycle.
7. General Statutes §9-606 lays out the duties and responsibilities of individuals serving as treasurers for committees organized under Chapter 155 of the Connecticut General Statutes:

(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. . . .

...

(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, A candidate shall

⁴ See SEEC Form 1 – Registration by Candidate Leslie B. Moriarty (Greenwich Town Clerk, July 28, 2017) (claiming exemption from forming candidate committee based on spending less than \$1,000); SEEC Form 1 – Registration by Candidate Elizabeth K. Krumeich (Greenwich Town Clerk, July 26, 2017) (claiming exemption from forming candidate committee based on spending less than \$1,000); SEEC Form 1 – Registration by Candidate Jeffrey S. Ramer (Greenwich Town Clerk, July 20, 2017) (claiming exemption from forming candidate committee based on spending less than \$1,000); SEEC Form 1 – Registration by Candidate David A. Weisbrod (Greenwich Town Clerk, July 21, 2017) (claiming exemption from forming candidate committee based on spending less than \$1,000).

⁵ See SEEC Form 1 – Registration by Candidate Jill K. Oberlander (Greenwich Town Clerk, July 31, 2017) (claiming exemption from forming candidate committee based candidate's plan to use only personal funds to finance candidacy).

not serve as the candidate's own treasurer or deputy treasurer, except that a candidate who is exempt from forming a candidate committee under subsection (b) of section 9-604 and has filed a certification that the candidate is financing the candidate's campaign from the candidate's own personal funds or is not receiving or expending in excess of one thousand dollars may perform the duties of a treasurer for the candidate's own campaign.

8. General Statutes § 9-607 requires that all expenditures made by a candidate committee be approved by the treasurer and paid through committee funds. In addition, § 9-607 defines what constitutes "permissible expenditures" for a candidate committee:

(g) (1) As used in this subsection, (A) "the lawful purposes of the committee" means: (i) For a candidate committee or exploratory committee, the promoting of the nomination or election of the candidate who established the committee, except that after a political party nominates candidates for election to the offices of Governor and Lieutenant Governor, whose names shall be so placed on the ballot in the election that an elector will cast a single vote for both candidates, as prescribed in section 9-181, a candidate committee established by either such candidate may also promote the election of the other such candidate; . . .

9. A candidate committee may not make a contribution to a candidate or an expenditure promoting a candidate, other than the individual candidate for whom the candidate committee was established.

Sec. 9-616. (a) A candidate committee shall not make contributions to, or for the benefit of, (1) a party committee, (2) a political committee, (3) a committee of a candidate for federal or out-of-state office, (4) a national committee, or (5) another candidate committee except that (A) a pro rata sharing of certain expenses in accordance with subsection (b) of section 9-610 shall be permitted, and (B) after a political party nominates candidates for election to the offices of Governor and Lieutenant Governor, whose names shall be so placed on the ballot in the election that an elector will cast a single vote for both candidates, as prescribed in section 9-181, an expenditure by a candidate committee established by either such candidate that benefits the candidate committee established by the other such candidate shall be permitted.

10. As the named treasurer for the Turner's candidate committee, Respondent Miller filed campaign finance reports for the committee and executed checks to pay for obligations of the candidate committee. Miller cooperated in the investigation of this matter and supplied documentation regarding the committee's bank accounts and expenditures.

11. While Miller executed checks on behalf of the committee, he did not exercise control over the expenditures made by the committee as required under General Statutes §§ 9-606 and 9-607. Those statutory provisions require treasurers to approve all expenditures of the committee and to make certain that each expenditure falls within the ambit of “permissible expenditures” outlined in General Statutes § 9-607. Miller should have known that some expenditures paid by the committee – such as those that benefitted other BET candidates in addition to Turner – were not permissible expenditures for the Turner candidate committee since they did not directly promote Turner’s candidacy.
12. Miller also violated General Statutes § 9-608 by failing to itemize his reporting sufficiently to show each transaction made by the committee. The committee’s campaign finance disclosure reports on several instances report simply a lump sum payment for a type of expenditure instead of itemizing each check issued by the committee and individual paid through that instrument. For example, in his January 10, 2018 report for *People First Committee*, Miller stated that the committee had paid “Campaign Workers” a total of \$34,329 via “various” checks between the dates of October 30 and November 7. This type of reporting does not meet the standard for itemized disclosure required in the applicable statutes.
13. Miller also violated General Statutes § 9-622 (10) by authorizing impermissible expenditures from the Turner candidate committee that benefitted other candidate committees and by receiving impermissible contributions from Turner’s business. As stated previously, the Turner candidate committee made expenditures totaling at least \$76,164.40 that promoted candidates other than Turner.
14. Respondent Miller authorized payments that benefitted candidates other than Turner by approving those expenditures. In addition, having received invoices from Seaside Designs that required the Turner candidate committee to pay only postage for campaign literature, Miller knew or should have known that the design and production costs were being paid by another person other than the committee. He did not enquire about who was paying for the production of the literature and thus allowed the candidate committee to receive unreported, impermissible expenditures.
15. According to documentation provided by the candidate, Turner planned and paid for six barbecues held in Greenwich in the four weeks preceding the November general election. The total cost for food for the events was \$53,416.08, which was paid for by Turner’s candidate committee for which Respondent Miller served as treasurer. Even though the invitations for those events declared that the other BET candidates had also paid for the events, Miller actually paid for the events solely from the funds in Turner’s

candidate committee, without seeking reimbursement from the other BET candidates for a portion of the expenses related to the barbecue events.

16. Under the candidate's direction, Turner's candidate committee made expenditures that promoted or benefited other municipal candidates in Greenwich. Respondent Miller stated that he had approved transactions of the candidate committee, but based on the information gathered during the course of this investigation, the candidate appears to have devised funding mechanisms to pay for the design and printing of mailers from his business while paying for the postage to send those mailers from either his candidate committee or his personal funds. These expenditures that benefitted other candidates were never reported to Miller or as contributions to those candidates.
17. Contributions from business entities to candidate committees or non-independent expenditures that are made on behalf of candidates or candidate committees by business entities are prohibited. The definition of "entity" would include a limited liability company.⁶

Sec. 9-613. (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.

18. Illegal practices are defined in General Statutes § 9-622, and include making or receiving impermissible expenditures as well as engaging in knowing and willful acts that violate Chapter 155. Specific violations that would be illegal practices and are relevant to the facts in this matter include:
 - (8) Any person who knowingly and wilfully violates any provision of this chapter;
 - ...
 - (10) Any person who solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter;
19. General Statutes § 9-7b authorizes the Commission to seek \$2,000 per violation of any provision of Chapter 155 or twice the amount of any impermissible expenditure or contribution, whichever is greater.

⁶ See General Statutes § 9-601 (10) (defining "entity" to include, among other things, limited liability company).

20. 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.

21. 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.

22. 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.

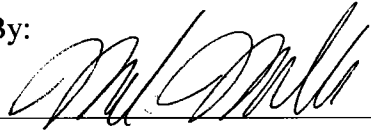
ORDER

IT IS HEREBY ORDERED THAT the Respondent Mark Miller shall pay a civil penalty of \$15,000 for violations of General Statutes that he committed over the course of the 2017 election cycle. Respondent agrees to pay \$500 of the civil penalty. The Commission agrees to remit the balance (\$14,500) of the civil penalty based on the Respondent's evinced financial hardship.

The Respondent

For the State of Connecticut

By:



Mark S. Miller
681 King St.
Stratford, CT 06614

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: _____

7/9/2019

Dated: _____

7/16/19

Adopted this 17th day of July 2019 at Hartford, Connecticut by vote of the Commission.



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

Stephen T. Penny