

JAN 30 2019

ENFORCEMENT COMMISSION

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Joseph W. Jaskiewicz,
Montville

File No. 2018-010A

AGREEMENT CONTAINING CONSENT ORDER

This Agreement by and between Joseph Rogulski, of the Town of Montville, County of New London, 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 Respondent Joseph Rogulski, Montville Republican Town Committee ("MRTC") treasurer, failed to report the costs for the use of facilities for the MRTC headquarters on its January 10th 2018 financial statement.
2. A failure to report expenditures for the use of facilities as MRTC headquarters by its treasurer would be a violation of General Statutes § 9-608. The provision of the use of the facilities by a business entity to the MRTC without payment would be an in-kind contribution subject to source and limit restrictions pursuant to Title 9, Chapter 155 of the General Statutes.
3. This agreement and order is limited to Respondent. Any additional potential settlement with other individual Respondents pertaining to this matter are treated under separate dispositions. Respondent has no prior history with the Commission.
4. General Statutes § 9-608, provides 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, (A) on the tenth calendar day in the months of January, April, July and October, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, the statement shall be filed on the next business day, except that in the case of a candidate or exploratory committee established for an office to be elected at a special election, statements pursuant to this subparagraph shall not be required, (B) on the seventh day preceding each regular state election, except that (i) in the case of a candidate or exploratory committee established for an office to be elected at a municipal election, the statement shall be filed on the seventh day preceding a regular municipal election in lieu of such date, except if the candidate's name is not eligible to appear on the ballot, in which case such

statement shall not be required, (ii) in the case of a town committee, the statement shall be filed on the seventh day preceding each municipal election in addition to such date, ...

...

(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.]

5. General Statutes § 9-612, provides in pertinent part:

(a) **No individual shall make a contribution or contributions in any one calendar year in excess of** ten thousand dollars to the state central committee of any party, or for the benefit of such committee pursuant to its authorization or request; **or two thousand dollars to a town committee of any political party,** or for the benefit of such committee pursuant to its authorization or request; or two thousand dollars to a legislative caucus committee or legislative leadership committee, or one thousand dollars to any other political committee other than (1) a political committee formed solely to aid or promote the success or defeat of a referendum question, (2) an exploratory committee, (3) a political committee established by an organization, or for the benefit of such committee pursuant to its authorization or request, or (4) a political committee formed by a slate of candidates in a primary for the office of justice of the peace of the same town. [Emphasis added.]

6. Pursuant to General Statutes § 9-622 (10), committing the following practice is prohibited:

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

7. Upon investigation, it was determined that the MRTC used the property based on an oral agreement with its owner John D'Amato for approximately two months prior to the November 7, 2017 election in Montville. The MRTC paid for the utilities during that period, which were reported on its campaign finance statements.
8. Respondent claims that he did not know how to report the free use of the property as headquarters and was willing to do so as part of this investigation. MRTC members agreed to clean up the property and remove the trash left by the former tenant. The MRTC vacated the property used as headquarters approximately one week after the election.
9. The Commission in *Complaint by Peter J. Tracey, Vernon, File No. 2003-150*, has had an opportunity to consider and accept regular business practices as pertain the discounted use of commercial real estate that remains unoccupied. More specifically, the Commission determined:

VRTC Occupied space owned by Respondent at "Shops at 30." The commercial plaza has approximately thirty units, and a full unit was used at no charge between approximately mid-September through mid-November in the years 1999 and 2000, and partial use of that single unit at no charge between approximately mid-September through mid-November in 2001 and 2002.

This calculation is based on the discounted industry rate of \$2.00 per square foot that is used for properties that are otherwise vacant, and where tenant agrees to quit the premise upon notice by the landlord that a commercial tenant for the property has been acquired. In addition, the tenants agreed to take the property "as is," with no improvements or betterment required to be done by the landlord.

There was no formal agreement between Respondent and VRTC, but it was understood that the VRTC would, if necessary, be ready to vacate the property upon notice should a commercial tenant be found for the otherwise unoccupied space. Occupancy included the payment of utilities except for telephone expenses.

10. The investigation revealed that Mr. D'Amato had donated this office space for use by the MRTC as a headquarters in the past and the monthly rental was worth about \$1,700.00. It follows that the approximate value to the MRTC for using the property as headquarters for about two months during the election was about \$ 3,400.00. The donation of the use of his property to the MRTC as detailed in this matter resulted in an in-kind contribution from Mr. D'Amato to the MRTC in the amount of \$ 3,400.00 pursuant to General Statutes § 9-601A (a) (1). Pursuant to § 9-612 (a) an individual can give a maximum of \$ 2,000.00 to a town committee.
11. Respondent received an excessive contribution, by an individual, from John D'Amato in the amount of \$1,400.00 by accepting the use of his rental property for use as headquarters by the MRTC for approximately 2 months prior to the November 7, 2017 election as detailed herein. Counsel recommends the Commission conclude that Respondent violated General Statutes § 9-612 and § 9-622 by receiving an excessive in-kind contribution from an individual and be ordered to henceforth strictly comply with those sections.
12. Further, Respondent failed to report the provision of office space at no-charge to the MRTC for use as party headquarters by Mr. D'Amato. The MRTC used this space for approximately two months, which was an in-kind contribution in the value of 1,700.00 per month received by the MRTC, which should have been included on financial statements as required by General Statutes
13. The Commission concludes therefore that Respondent violated General Statutes § 9-608 by failing to report on the MRTC financial statements receipt of an in-kind contribution from Mr. D'Amato in the amount of \$3,400.00 for the use of retail store front space as a campaign headquarters prior to the November 7, 2018 municipal election..
14. The Commission in assessing a civil penalty is generally guided by In its determination of the amount of the civil penalty to be imposed, the Commission shall consider, among other mitigating or aggravating circumstances:
 - (1) the gravity of the act or omission;
 - (2) the amount necessary to insure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions; and
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
15. The Commission believes given the Respondent's cooperation throughout this complaint and investigation's payment of civil penalty in the amount of \$500.00, his amendment of all relevant MRTC financial statements to reflect the accurate receipt of an in-kind contributions as detailed herein, and his agreement to henceforth strictly comply with General Statutes § 9-606, § 9-612 and § 9-622, is a reasonable settlement under these circumstances.

16. Moreover, the Commission agrees to resolve this matter with the MRTC and Respondent as its treasurer for its agreement to forfeit \$1,000.00 to the State of Connecticut in compensation for its use of the free rental space that it received from Mr. D'Amato. While not discounting the original estimate of \$1,700.00 *per* month fair market value provided by the owner of the property, or the basis for determining the total of \$3,400.00 for its use for approximately 10 weeks prior to the November 7, 2017 municipal election.
17. The Commission nevertheless does consider the fact that the MRTC used one of four rooms within the office for that period; one half of the available store front; and regular business practices of discounting retail properties for such short term use, as reasonable and consistent with prior cases. Such a discounted value for short-term use of otherwise unoccupied commercial real estate has been recognized by this Commission previously as an acceptable business practice. *See Complaint by Peter J. Tracey, Vernon, File No. 2003-150.*
18. Therefore, the Commission accepts, as reasonable and limited to these narrow and a specific circumstances, the MRTC's proffered forfeiture of \$1,000.00 in resolution of this matter. The parties agree that the amount of this forfeiture does not impact what properly should be reported as the aggregate in-kind contribution by Mr. Amato in the amount of \$3,400.00; or the proper amendment of the respective MRTC financial statements to reflect such contributions.
19. 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.
20. 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.
21. 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.
22. 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, if one becomes necessary.

ORDER

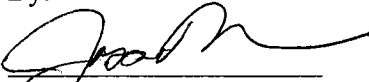
IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of five hundred dollars (\$500.00) for his violations of General Statutes § 9-608, § 9-612 and § 9-622.

IT IS FURTHER ORDERED THAT Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-608, § 9-612 and § 9-622.

FINALLY, IT IS ORDERED THAT Respondent shall cause the MRTC to forfeit from treasury funds \$1,000.00 to the State of Connecticut, for its receipt of a prohibited business entity in full settlement for its receipt of the use of free office space, as detailed herein.,

The Respondent

By:

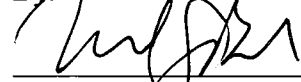


Joseph Rogulski, Treasurer
Montville Republican Town Committee
74 Roseland Hill Road
Uncasville, Connecticut

Dated: 1/29/2019

For the State of Connecticut

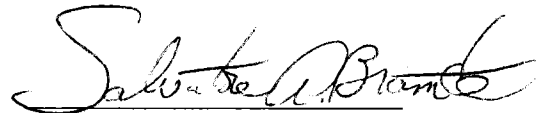
By:



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

Dated: 1/29/19

Adopted this 20th day of February, 2019 at Hartford, Connecticut by vote of the Commission.



~~Anthony J. Castagno, Chairman~~
By Order of the Commission
Salvatore Bramante - Vice Chair