

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Jeffrey Caggiano, Bristol

File No. 2018-031B

**AGREEMENT CONTAINING A CONSENT ORDER**

The parties, Krystal Myers (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. In accordance with those provisions, the parties agree that:

**Background**

1. At all times relevant hereto, Kevin Fuller was a candidate for State Representative of Connecticut’s 77<sup>th</sup> General Assembly District.<sup>1,2</sup>
2. On February 23, 2018, Respondent Fuller registered the *Fuller 2018* candidate committee with the Commission and indicated that such committee would be the sole funding source for Respondent Fuller’s campaign for State Representative for the 77<sup>th</sup> General Assembly District.
3. The February 23, 2018 registration form for the *Fuller 2018* candidate committee, as well as the subsequent June 25, 2018 registration form, indicates that Respondent Krystal Myers has assented to serve as the treasurer of the committee.
4. On June 4, 2018, the Complainant filed the instant complaint with the Commission.
5. On June 25, 2018, Respondents Fuller and Myers filed a Citizens’ Election Program Application for Public Grant Dollars.
6. On July 12, 2018, after reviewing the application, the Commission approved the Respondents’ application for a grant from the Citizen’s Election Program.

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<sup>1</sup> Allegations concerning the conduct of Kevin Fuller shall be addressed in a separate document.

<sup>2</sup> 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.

### Count I

7. The Complainant alleges that the *Fuller 2018* committee received an impermissible in-kind contribution from a business in the form of free ice cream given to contributors to the *Fuller 2018* committee.
8. General Statutes § 9-613 provides, in pertinent part, that:

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.
9. The investigation into this matter revealed that on March 30, 2018 and again on March 31, 2018, the *Fuller 2018* committee held fundraisers (hereinafter the "Fundraisers") at Dunphys and Company LLC d/b/a Dunphy's Ice Cream, a local ice cream shop in Bristol Connecticut owned by Respondent Fuller's spouse, Gail Fuller.
10. Dunphys and Company LLC is a business entity as defined by General Statutes § 9-601 (8).
11. At both of the Fundraisers, contributors were offered a free ice cream sundae if they made a \$15 or greater contribution to the *Fuller 2018* committee.
12. The *Fuller 2018* committee collected 132 contributions at the Fundraisers.
13. Each contribution raised at the Fundraisers was in the amount of \$15 or more.<sup>3</sup>

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<sup>3</sup> It has long been the advice of the Commission that contributors to candidate committees participating in the Citizens' Election Program should not receive anything of value in exchange for their contributions. *See In the Matter of a Complaint by Anthony DiPace, Enfield*, File No. 2008-136. The Commissions' position is detailed further in its guidebook for candidates participating in the Citizens' Election Program:

As previously discussed, qualifying contributions are small-dollar donations given by individuals in order to show a level of public support for the participating candidate. Since qualifying contributions are intended to show a significant level of public support for the candidate seeking public funds, participating candidate fundraising includes some restrictions not found in the private campaign financing system.

The participating candidate's fundraising tools should not include offering valuable gifts as a quid pro quo for qualifying contributions. When a participating candidate sells or exchanges valuable items to raise contributions, the contributions may not clearly demonstrate support for a particular candidate.

14. The value of the sundaes served at the March 30<sup>th</sup> and March 31<sup>st</sup> fundraisers were \$3.25.<sup>4</sup>
15. The investigation reveals that the *Fuller 2018* committee paid for each ice cream distributed at both events via check dated April 2, 2018 in the amount of \$290.75.<sup>5</sup>
16. Accordingly, this Count should be dismissed.

### Count II

17. The Complainant alleges that the Respondent improperly made payments to a business owned by the Respondent's spouse.
18. General Statutes § 9-607 provides, in pertinent part, "[u]nless otherwise provided by this chapter, any treasurer, in accomplishing the lawful purposes of the committee, may pay the expenses of: . . . (L) compensation for campaign or committee staff, fringe benefits and payroll taxes, provided the candidate and any member of his immediate family shall not receive compensation[.]"<sup>6</sup>

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Accordingly, participating campaigns may not hold auctions, tag sales or raffles to raise qualifying contributions.

Traditional fundraisers which include serving food remain generally permissible. For example, participating candidates may continue to hold spaghetti dinners or ice cream socials as part of their fundraising. Additionally, participating candidates may give away traditional campaign paraphernalia such as bumper stickers, t-shirts, hats, buttons, or other similar items.

State Elections Enforcement Commission, Understanding Connecticut Campaign Finance Laws: A 2018 Guide for Statewide Office and General Assembly Candidates Participating in the Citizens' Election Program 37-38 (June 2018).

In this case, in order for the contributors to the *Fuller 2018* committee to receive a free ice cream, they were required to make a contribution of \$15. The Commission strongly discourages organizing a fundraiser in this way, and doing so may endanger a committee's eligibility to receive a grant from the Citizens' Election Program. However, in this case, as the value of each contribution raised at the Fundraisers – \$15 or more – was significantly greater than the value of what was received in return – a sundae valued at \$3.25 – the Commission determined that the donative intent of each contributor could not reasonably be called into question. Accordingly, the 132 contributions raised at Fundraisers were not disqualified in the consideration of the *Fuller 2018* committee Citizens' Election Program grant application.

<sup>4</sup> This is the amount Dunphy's Ice Cream charged for any event held at that location.

<sup>5</sup> Of the 132 contributors at the Fundraisers, only 84 actually received the free ice cream. The \$290.75 amount paid by the *Fuller 2018* committee to Dunphy's Ice Cream represents the value of 84 ice creams given out at the event, plus tax.

<sup>6</sup> A candidate's spouse is considered to be a member of the candidate's immediate family pursuant to General Statutes § 9-601 (24).

19. The Citizens' Election Program regulations further limit payments that benefit an immediate family member. Specifically, Regs. Conn. State Agencies § 9-706-2 (a) (4) prohibits the spending funds in a participating candidate's depository account for, "[p]ayments to any entity in which the participating candidate or the participating candidate's family members, as listed in section 9-706-2(b)(3) of the Regulations of Connecticut State Agencies, has a 5% or greater ownership interest."<sup>7</sup>

20. However, such restrictions only apply to "qualified candidate committees." See Regs. Conn. State Agencies § 9-702-1 (a).

21. Qualified candidate committees are defined to be a committee:

(A) established to aid or promote the success of any candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of the State, state senator or state representative, and (B) approved by the commission to receive a grant from the Citizens' Election Fund under section 9-706.

General Statutes § 9-701 (12).

22. It is not alleged, nor do the facts support a finding, that Respondent Fuller's spouse, or any other member of the Respondent's family were directly or indirectly compensated by the campaign.

23. Accordingly, the facts do not support a finding that the Respondent violated General Statutes § 9-607.

24. Moreover, while Respondent's Fuller's wife did own more than five per cent of Dunphy's Ice Cream at the time it received payment from the *Fuller 2018* committee's depository account, at the time of such payment, the *Fuller 2018* committee was not a "qualified candidate committee" as it had not yet been approved by the commission to receive a grant from the Citizens' Election Fund.

25. Accordingly, this Court should be dismissed.

### Count III

26. The Complainant alleges that the Respondent Myers failed to report expenditures made in connection with the Fundraisers.

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<sup>7</sup> A candidate's spouse is considered a member of the candidate's family pursuant to Regs. Conn. State Agencies § 9-706-2 (b) (3).

27. General Statutes § 9-608 requires that:

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 . . . The statement shall cover a period to begin with the first day not included in the last filed statement. In the case of a candidate committee, the statement required to be filed in January shall be in lieu of the statement formerly required to be filed within forty-five days following an election.

28. The financial disclosure statements committee treasurers are required to file must include:

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;

General Statutes § 9-608 (c) (1) (B).

29. Such financial disclosure reports must also include expenditures incurred but not yet paid.  
General Statutes § 9-608 (c) (1) (C).

30. Having formed a committee on February 23, 2018, Respondent Myers was responsible for filing a financial disclosure statement for the *Fuller 2018* committee by April 10, 2018, that covered the period from February 23, 2018 through March 31, 2018.

31. On April 8, 2018, Respondent Myers filed a financial disclosure statement for the *Fuller 2018* committee.

32. The financial disclosure statement filed by Respondent Myers on April 8, 2018 for the *Fuller 2018* committee did not include any expenditures for the Fundraisers.

33. On June 25, 2018, after the instant complaint had been filed, Respondent Myers filed an amended financial disclosure statement for the *Fuller 2018* committee that included the

expenditure for the Fundraisers as an expenditure incurred but not yet paid during that period.<sup>8</sup>

34. The Commission concludes that Respondent Myers was required to file a financial disclosure statement that included a detailed accounting of the expenditures of the *Fuller 2018* committee by April 10, 2018 that covered the period that included the Fundraisers.
35. The Commission finds that the financial disclosure statement filed by Respondent Myers on April 8, 2018 covering that period did not list any expenditures associated with that event.
36. The Commission further finds that the expenditures associated with the Fundraisers were incurred during that reporting period, even if they had not yet been paid.
37. The Commission therefore concludes that the Respondent was required to report the expenditures associated with the Fundraisers on the April 10, 2018 financial disclosure statement of the *Fuller 2018* committee, but did not do so.
38. Accordingly, the Commission concludes that, the Respondent violated General Statutes § 9-608.
39. The Commission has previously deemed failing to disclose financial transactions in financial disclosure statement to be a serious matter. *See In the Matter of a Complaint by Christopher M. Suggs, West Haven*, File No. 2015-107. When such failure is the result of an honest misunderstanding or mistake, the Commission has elected not to pursue a civil penalty. *In the Matter of a Complaint by Frank Capone, East Haven*, File No. 2015-106. However, when such conduct was significant or egregious, the Commission has exercised its civil penalty authority. *See In the Matter of a Complaint by Nany Conaway-Raczka, Middletown*, File No. 2015-125.
40. In this case, the amount of the expenditure was relatively small and the expenditure was incurred immediately prior to the reporting period.
41. The Respondent has been cooperative with the Commission's investigation and has shown good faith in attempting to comply with the applicable provisions of the General Statutes including amending the financial disclosure statement to accurately reflect the financial transactions.

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<sup>8</sup> On June 25, 2018, Respondent Myers also filed a financial disclosure statement covering the period April 1, 2018 through June 23, 2018. That statement was filed as part of the Respondents' application for a grant from the Citizens' Election Program. In that statement, Respondent Myers reported the payment to Dunphy's Ice Cream as paid.

42. The Respondent has no prior history with the Commission.

43. There is no indication that a civil penalty is necessary to insure immediate and continued compliance with the statute.

**TERMS OF GENERAL APPLICATION**

44. 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.

45. 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.

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

47. 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:

- 1) Counts I and II are dismissed; and
- 2) The Respondent shall henceforth comply with General Statutes § 9-608.

**The Respondent:**

By: *Kristal Myers*  
Kristal Myers  
221 Newell Avenue  
Bristol, CT 06010

**For the State of Connecticut:**

By: *Michael J. Brandt*  
Michael J. Brandt  
Executive Director and General Counsel and  
Authorized Representative of the  
State Elections Enforcement Commission  
20 Trinity St.  
Hartford, CT 06106

Dated: 8/29/18

Dated: 8/31/18

Adopted this 29 day of August, 2018 at Hartford, Connecticut by vote of the Commission.

*Salvatore A. Bramante*  
~~Anthony J. Castagno, Chairman~~  
by Order of the Commission  
Salvatore A. Bramante Co Chair