

In the Matter of a Complaint Edward Boughton, North Branford
2018-087A
In the Matter of a Complaint Edward Boughton, North Branford
2018-092A
In the Matter of a Complaint Edward Boughton, North Branford
2018-109A

File No.
File No.
File No.

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Elizabeth Caplan (“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:

Introduction

- Over the course of three complaints, Complainant Edward Boughton made numerous allegations concerning a food sale by the North Branford Democratic Town Committee at the North Branford Potato and Corn Festival.
- Specifically, Complainant alleged that:
 - Respondent Caplan failed to properly report the financial transactions associated with the event;
 - Respondent Caplan failed to include the proper attribution on the flyer for the event;
 - Respondent Caplan improperly diverted proceeds from the festival to Vincent Mase’s campaign; and
 - Respondent Caplan accepted a contribution in excess of the statutory maximum into the North Branford Democratic Town Committee

Factual Background

- At all times relevant hereto the North Branford Democratic Town Committee (the “North Branford DTC”) was a party committee as defined by General Statutes § 9-601 (2).
- At all times relevant hereto, Respondent Caplan was the treasurer of the North Branford DTC.

- On or about May 29, 2018, Vincent Mase registered the Committee to Elect Vince Mase Representative 86th District with the Commission to finance his campaign for State Representative.
- At all times during Committee to Elect Vince Mase Representative 86th District's existence, Lewis Paternoster was the treasurer of such committee.
- On or about June 5, 2019, Daniel Armin named as the deputy treasurer of the Committee to Elect Vince Mase Representative 86th District via a filing of an amended registration with the Commission.
- On or about January 10, 2019, Daniel Armin filed a termination report with the Commission concerning the Committee to Elect Vince Mase Representative 86th District.
- At all times relevant hereto the North Branford Democratic Town Committee (the "North Branford DTC") was a party committee as defined by General Statutes § 9-601 (2).
- The North Branford Potato & Corn Festival (the "NBPCF") is an annual event held the first weekend of August.
- During the NBPCF, food vendors may contact the festival's staff and reserve a booth to sell food during the festival.
- Prior to the NBPCF, the North Branford DTC circulated a flyer advertising their booth and included the statement "Sponsored by the North Branford DTC."
- The 2018 NBPCF was held on or about August 5, 2018 through August 8, 2018.
- Prior to August 5, 2018, the North Branford DTC reserved a booth to sell food at the 2018 NBPCF.
- On and prior to August 5, 2018, Brenda Shuler, a North Branford DTC volunteer, made payments in the amount of \$3,051.75 for the purchase and rental of various items to be used at the North Branford DTC's booth at the NBPCF.
- While Respondent Caplan was present at the beginning of the festival, it was Ms. Shuler that ran the North Branford DTC's booth at the NBPCF.
- Evidence suggests that Vincent Mase attended the NBPCF and visited the North Branford DTC's booth at that event.

- The Respondent reports, and evidence suggests, that the North Branford DTC collected \$1,807.61 at the NBPCF.
- After the NBPCF, the Respondent Caplan sought an accounting of the event from Ms. Schuler, but was unable to obtain the information she requested.
- On or about October 9, 2018, Respondent Caplan filed a financial disclosure statement with the Commission for the North Branford DTC covering the period July 1, 2018 through September 30, 2018 (the “Original October 10th Report”). The filing did not contain any transactions relating to the NBPCF.
- Immediately following Respondent’s filing of the financial disclosure statement on October 9, 2018, Respondent emailed the Commission and indicated that there were additional transactions related to the NBPCF that were not include in the report.
- On or about October 30, 2018, Respondent Caplan filed an amended financial disclosure statement with the Commission for the North Branford DTC covering the period July 1, 2018 through September 30, 2018 (the “Amended October 10th Report”). The filing disclosed receipts of \$1,807.61.
- The Amended October 10th Report further indicated that Ms. Shuler had made a \$3,051.75 in kind contribution to the North Branford DTC.

Law

- General Statutes § 9-608 requires that treasurers of committees accurately report their committee’s financial transactions. Specifically General Statutes § 9-608 (c) (1) provides:

(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; (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.

- General Statutes § 9-606 (a) (5) further requires that, “The treasurer of each committee shall deposit contributions in the committee's designated depository not later than twenty days after receiving them.”
- General Statutes § 9-607 (e) further requires that:

Any [payment in satisfaction of any financial obligation incurred by a committee] . . . shall be by check drawn by the treasurer, on the designated depository. Any payment in satisfaction of any financial obligation incurred by a committee may also be made by debit card or credit card. In the case of payment made under a contract between a committee and a community antenna television company, as defined in section 16-1, for the purchase of advertisement space, the treasurer of

such committee may pay for such services using a bank or cashier's check, as defined in section 42a-3-104, if so required by the contract, provided the treasurer maintains documentation substantiating that the funds used to pay for such advertising space were expended from the committee's funds. (2) The treasurer of each committee may draw a check, not to exceed one hundred dollars, to establish a petty cash fund and may deposit additional funds to maintain it, but the fund shall not exceed one hundred dollars at any time. All expenditures from a petty cash fund shall be reported in the same manner as any other expenditure.

- Finally, General Statutes § 9-621 (a) provides:

No individual shall make or incur any expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate's agent, no group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee shall make or incur any expenditure, and no candidate or committee shall make or incur any expenditure including an organization expenditure for a party candidate listing, as defined in subparagraph (A) of subdivision (25) of section 9-601, for any written, typed or other printed communication, or any web-based, written communication, which promotes the success or defeat of any candidate's campaign for nomination at a primary or election or promotes or opposes any political party or solicits funds to benefit any political party or committee unless such communication bears upon its face as a disclaimer (1) the words "paid for by" and the following: (A) In the case of such an individual, the name and address of such individual; (B) in the case of a committee other than a party committee, the name of the committee and its treasurer; (C) in the case of a party committee, the name of the committee; or (D) in the case of a group of two or more individuals that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee, the name of the group and the name and address of its agent, and (2) the words "approved by" and the following: (A) In the case of an individual, group or committee other than a candidate committee making or incurring an expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate's agent, the name of the candidate; or (B) in the case of a candidate committee, the name of the candidate.

Discussion

- The facts of this case are uncontested. Ms. Shuler, in coordination with Respondent Caplan, decided to have a booth to sell food at the NBPCF. Ms. Shuler outlaid \$3,051.75 to support the event and then repaid herself \$1,807.61 with the proceeds of the event. This resulted in a \$1,244.14 net contribution to the North Branford DTC from Ms. Shuler.

- The errors that were made in these transactions are also clear. Ms. Shuler should have immediately provided all of the proceeds from North Branford DTC's booth at the NBPCF to the North Branford DTC treasurer, Respondent Caplan so that Respondent Caplan could then deposit the proceeds from the event into the North Branford DTC account within 20 days. Respondent Caplan should then have issued a committee check to Ms. Shuler for the amount she was going to be reimbursed. Each of those transactions should have been reflected on the Original October 10th Report of the North Branford DTC. Instead, Ms. Shuler used the proceeds of the event to reimburse herself directly. The reporting on the event was therefore delayed and, even when it was made, it was inaccurate.
- Evidence also shows that while the attribution on the North Branford DTC's flyer for the event did not have the correct "paid for by" language for the event, it did include the language "sponsored by" in large font and properly identified the committee paying for the event.
- Finally, the investigation revealed no evidence that any money from the event was used to make any contribution to or expenditure for the benefit of Vincent Mase's campaign.
- Accordingly, the Commission concludes that Respondent Caplan violated General Statutes §§ 9-607, § 9-608, and dismiss the allegations concerning the alleged improper attribution and improper contribution to the Vincent Mase campaign.
- 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
- The Commission has also sanctioned treasurers who pay for committee expenditures with cash contributions that were never deposited. *See In re. Audit Report for Committee to Elect Christina "Tita" Ayala*, File No. 2013-104.
- The Commission notes, however, that Respondent Caplan has been extremely cooperative with the Commission's investigation. Moreover, Respondent voluntarily reached out to the Commission to notify Commission staff that there was a problem before any of the instant complaints had been filed. Finally, the Respondent has voluntarily sought additional training from Commission staff in order to ensure that she remains in compliance in the future.

Terms of General Application

- 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.

- The Respondent waives:
 - Any further procedural steps;
 - The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - All rights to seek judicial review or otherwise to challenge or to contest the validity of the Order entered into pursuant to this Agreement.
- 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.
- 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 §§ 9-607 and 9-608.

It is further ordered that the Respondent shall pay a civil penalty of \$200.

Respondent:

By: Elisabeth Caplan
Elisabeth Caplan
86 Old Post Rd.
Northford, CT 06472

For the State of Connecticut:

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

Dated: 10/11/2019

Dated: 11/1/19

Adopted this ^{6th}~~10th~~ day of ^{November}~~October~~, 2019 at Hartford, Connecticut by vote of the Commission.

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