

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re. Commission Initiated Investigation into *Hwang4Senate* Committee File No. 2018-123

FINDINGS & CONCLUSIONS

The State Elections Enforcement Commission initiated this investigation based on results of the grant validation process for the *Hwang4Senate* candidate committee, which showed that the candidate had used a portion of commercial space he rented for his business as a headquarters for his candidate committee without paying rent for the use of that space. After an investigation of the matter, the Commission adopts the following findings of fact and conclusions of law:

1. Tony Hwang formed his candidate committee for the 2018 election cycle on May 14, 2018.¹ In that initial registration statement, he named Thomas McCarthy as the treasurer for the candidate committee.²
2. The candidate and treasurer agreed to participate in the Citizens' Election Program and acknowledged their acceptance of the program rules when they completed the SEEC Form CEP 10.³ The candidate committee applied for a grant from the Citizens' Election Fund and again the candidate, treasurer, and deputy treasurer agreed to additional restrictions on qualified candidate committees.⁴
3. During the 2018 election cycle, the candidate committee for Tony Hwang rented space from the candidate's real estate business. The existence of this lease arrangement was brought to light during the candidate committee's validation for a grant from the Citizens' Election Fund. The candidate, Hwang, contacted Commission staff as it was reviewing his committee's grant application. Hwang sought information about how to resolve a headquarter space, saying he had received inquiries from members of the media about the use of his business's office space by his candidate committee and wanted to work with SEEC to resolve the issue.

¹ See Registration by Candidate – SEEC Form 1 *Hwang4Senate* (May 14, 2018) (establishing candidate committee for Anthony T. Hwang for 28th district senate seat).

² *Id.*

³ See Affidavit of Intent to Abide by Expenditure Limit and Other Citizens' Election Program Requirements – SEEC Form CEP 10 – *Hwang4Senate* (July 23, 2018) (reflecting agreement of candidate, treasurer, and deputy treasurer to statutory and regulatory rules governing Citizens' Election Program).

⁴ See Citizens' Election Program Application for Public Grant Dollars – SEEC Form CEP 15 – *Hwang4Senate* (July 23, 2018) (showing acceptance by candidate, treasurer, and deputy treasurer of additional restrictions on candidate committee's use of funds provided through Citizens' Election Program).

4. Candidate's real estate business, Whitfield + Hwang, LLC, leased space at 39 Sanford Street in Fairfield for a monthly rent of \$2,700. The two-year lease, which began on January 1, 2017 and ran through December 31, 2019, contemplated that the space would be used for "real estate and mortgage brokerage and consulting services and a *political campaign office*." (Emphasis added). The candidate stated to Commission staff that the failure to pay rent to the business for use of this space was an oversight.
5. According to Hwang, the committee used the Sanford Street space from June 11, 2018 through September 3, 2018 for certain limited campaign activities, including storage of items as well as some election activity. The candidate committee estimated the fair market value of using this space in a commercial office to be \$5,360.95 at the most.
6. In order to come back into compliance with the rules related to the Citizens' Election Program, on September 26, 2018, the candidate committee forfeited to the Citizens' Election Fund \$5,360.95, which represented the estimated value of the rent for the use of the space.
7. Once the issue with the headquarter rental was resolved, the candidate committee received a grant from the Citizens' Election Fund on October 2, 2018, totaling \$94,068.65.
8. General Statutes § 9-606 requires the treasurer of a candidate committee to report all expenditures and contributions that the committee receives or makes.⁵
9. General Statutes § 9-607 (g)(2)(I) authorizes a treasurer to make expenditures, for among other things, to lease or rent office space.⁶
10. General Statutes § 9-613(a) prohibits a business entity from making contributions to a candidate committee.⁷ In addition, a candidate committee participating in the Citizens' Election Program may not accept any contributions other than "qualifying contributions," which are limited in General Statutes § 9-704 to contributions from individuals valued at between \$5 and \$200.
11. General Statutes § 9-622 (10) prohibits any "person" from receiving contributions that are prohibited anywhere in Chapter 155. General Statutes § 9-601 (10) defines "person" to include individuals and committees.

⁵ See General Statutes § 9-606 (laying out requirements for treasurers).

⁶ See General Statutes § 9-607 (authorizing treasurers to make expenditures for campaign-related expenses, including rental of office space).

⁷ See General Statutes § 9-613(a) (prohibiting business entities from making contributions to candidate committees).

12. General Statutes § 9-623 authorizes the Commission to impose a civil penalty of as much as \$2,000 per violation of General Statutes § 9-608. General Statutes § 9-7b(a)(1)(D) empowers the Commission to impose a civil penalty of \$2,000 per offense “or twice the amount of any improper payment or contribution, whichever is greater,” against any person that the Commission finds to have violated Chapters 155 or 157.
13. The candidate committee here received the benefit of rent for the more than three-month period between June 11 and September 30, 2018. Although the candidate committee ultimately paid the rent that it owed to the candidate’s real estate business, the committee should have been paying that rent on a monthly basis and reporting it as an expenditure in the relevant campaign finance reports. That rental payment should have been reported as part of the committee’s July 10 report as well as its Itemized Statement Accompanying Application for Public Grant, which it initially filed on July 24, 2018.
14. Occupying the commercial space controlled by Whitfield + Hwang, LLC without paying the fair market value for the use of that space would have resulted in a business entity contribution to the candidate committee. The disgorgement of the \$5,360.95 to the Citizens’ Election Fund prevented the committee from receiving the benefit of using that space without paying for it.
15. The candidate committee was selected as part of the Commission’s post-election audit process in 2018. That audit is now complete, and there are no additional findings resulting from the review, such as any other in-kind contributions or other significant violations. The Commission will finalize that post-election audit and will not initiate any other actions against respondent from either the audit or the circumstances that gave rise to this matter.
16. Because the candidate committee did not receive a financial benefit from the non-payment of rent and rectified the potential business entity contributions that could have resulted, the Commission will take no further action in this matter but cautions the committee to be more scrupulous when entering into agreements with a business affiliated with the candidate.

ORDER

IT IS HEREBY ORDERED THAT the Commission will take no further action on this matter.

Adopted this ____ day of _____, 2020 at Hartford, Connecticut by vote of the Commission.

Commissioner
By Order of the Commission

ORDER

IT IS HEREBY ORDERED THAT the Commission will take no further action on this matter.

Adopted this 20 day of JAN, ²⁰²¹~~2020~~ at Hartford, Connecticut by vote of the Commission.



Commissioner / chair
By Order of the Commission