

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re. Audit of Delnicki for South Windsor

File No. 2019-143A

AGREEMENT CONTAINING A CONSENT ORDER

This Agreement by and between Tom Delnicki, Town of South Windsor, 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. The Commission performed an in-depth review of the expenditures of the 2018 *Delnicki for South Windsor* candidate committee after the committee's selection in the random audit lottery conducted following the 2018 election cycle.
2. Respondent formed a candidate committee to finance his candidacy for election to the 14th General Assembly seat in the 2018 election cycle. His candidate committee, *Delnicki for South Windsor*, was reviewed as part of the Commission's post-election audit process.
3. Respondent established his candidate committee to run for the 14th General Assembly seat on February 20, 2018, naming Stephanie M. Dexter the committee's treasurer.¹ The candidate committee participated in the Citizens' Election Program.² The candidate committee received a grant from the Citizens' Election Fund totaling \$28,150.³

¹ See Registration by Candidate - SEEC Form 1, *Delnicki for South Windsor*, February 20, 2018) (creating candidate committee and appointing Stephanie M. Dexter as the committee's treasurer).

² See Affidavit of Intent to Abide by Expenditure Limits and Other Citizens' Election Program Requirements -- SEEC Form CEP 10, *Delnicki for South Windsor* (May 29, 2018) (evinced intent of candidate and treasurer to participate in Citizens' Election Program).

³ See Itemized Campaign Finance Disclosure Statements -- SEEC Form 30, *Delnicki for South Windsor* (October 3, 2018) (reflecting receipts of grants of \$8,445.00 and \$19,705.00 totaling \$28,150.00 from Citizens' Election Fund on July 10, 2018 and July 23, 2018).

4. The audit found that the Delnicki candidate committee used grant funds to pay in the aggregate \$525.00 in excessive payments for gifts totaling \$225.00 and payments for charitable contributions in the amount of \$300.00. These were made by his candidate committee in the 2018 election cycle. This agreement treats the conduct of Respondent solely and any liability for potential violations by any other individual based on these facts and circumstances is treated by the Commission under a separate disposition.
5. General Statutes § 9-607 (g) states that candidate committees may make payments for gifts to campaign or committee workers “not to exceed one hundred dollars.”⁴ Further, there are limited circumstances where a treasurer make a payment to a charitable organization.⁵ However, a candidate participating in the Citizens’ Election Program may not make such expenditures.
6. With the adoption of the Citizens’ Election Program, however, the legislature instructed the Commission to draft regulations related to the types of expenditures that qualified candidate committees were permitted to make using their grant monies obtained from the Citizens’ Election Fund.⁶
7. The Commission adopted regulations delineating those restrictions, specifically Section 9-706-2 of the Regulations of Connecticut State Agencies, which provides, in relevant part:
 - (b) . . . Participating candidates and the treasurers of such participating candidates shall not spend funds in the participating candidate’s depository account for the following:
 - ...
 7. Gifts of any kind if the value exceeds \$5 to any one recipient, including but not limited to the gifts described in section 9-607(g)(2)(T) of the Connecticut General Statutes;
 - ...
 12. Donations to a charity or community organization, except as the admission fee of no greater than \$100 to an event attended by

⁴ General Statutes § 9-607 (g) (delineating generally permissible expenditures of candidate and political committees).
⁵ General Statutes § 9-608 (e) & (f) (regarding the distribution of surplus and the termination of an exploratory committee, respectively).
⁶ See General Statutes § 9-706 (e) (directing State Elections Enforcement Commission to adopt regulations delineating restrictions on use of grant funds).

the candidate for campaign purposes prior to the applicable primary or election;⁷

8. In similar instances involving prohibited payments made by a qualified candidate committee, the Commission has sought restitution from the candidate and to the Citizens' Election Fund of an amount equal to the impermissible payment.⁸ Additionally, the treasurer of the committee bears separate liability when a candidate committee makes impermissible expenditures.
9. The candidate bears the responsibility to reimburse the fund for any "impermissible expenditures" that a qualified candidate committee made.⁹ Respondent acknowledged that liability when he declared himself a "participating candidate" and agreed to operate under the terms of the Citizens' Election Program.¹⁰
10. In this case, the payment for gifts by the committee in the amount of \$225.00 was excessive and of \$300.00 for charitable contributions were impermissible expenditures,

⁷ Regulations of Conn. State Agencies 9-706-23 (b) (7) & (12). (prohibiting gifts of any kind that exceed \$5 value to the recipient and the making of charitable contributions generally.

⁸ This is consistent with how the Commission has treated prior enforcement actions concerning similar facts. *See* File No. 2017-041A and 2017-041B, *In re. Audit of Laura Devlin for State Representative* (ordering candidate to reimburse the CEF for \$420, the amount the candidate committee paid for impermissible gift cards, and a \$500 civil penalty against the treasurer, who had been told by staff that the committee could not pay for a post-election party because the 14 day window had expired and who subsequently issued 14 gift cards valued at \$30 dollars each in lieu of such party, as well as an order to comply with the regulation requiring into contracts with service providers that specify the amount that a service provider will charge and the type of work that the service provider will perform.). *See also* File No. 2010-071, *In re. Audit for Committee to Re-Elect State Sen. Eric Coleman* (treasurer was assessed a \$600 civil penalty for impermissible donations of \$280 to 8 churches and an impermissible \$500 contribution to a town committee); File No. 2012-071 *In re. Audit Report of RJo Winch for State Rep.* (treasurer was assessed civil penalty of \$1000, where the committee had made an aggregate of \$1000 impermissible charitable donations). File No. 2014-050, *In re. Audit of Berger 2012* (the Commission did not issue a fine or civil penalty, in light of the fact that the candidate had already remitted a check in the amount of \$150 to (the amount of the alleged violation, and issued henceforth order as to treasurer comply in the future),

⁹ General Statutes § 9-703 (a) (2) (requiring candidate to repay any funds that were not expended in accordance with General Statutes § 9-607 (g) and regulations adopted by Commission related to expenditures for qualified candidate committees).

¹⁰ *See* Affidavit of Intent to Abide by Expenditure Limits and Other Citizens' Election Program Requirements – SEEC Form CEP 10, *Delnicki for South Windsor* (May 28, 2018) (evincing intent of candidate and treasurer to participate in Citizens' Election Program and candidate's agreement to reimburse any impermissible expenditures that qualified candidate committee may make).

and the candidate must return the money spent on that bonus to the Citizens' Election Fund.

11. Based on the Commission's findings, it shall seek reimbursement from Respondent to the Citizens' Election Fund in the aggregate total of \$525.00, which represents the amount of the impermissible gifts and charitable contributions paid by his candidate committee.
12. 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.
13. 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.
14. 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 shall reimburse the Citizens' Election Fund a in the amount of five hundred and twenty five dollars (\$525.00), in full settlement of this matter.

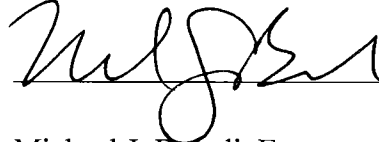
The Respondent

For the State of Connecticut

By:



By:



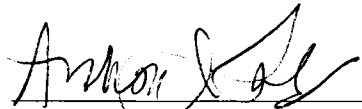
Tom Delnicki
130 Felt Road
South Windsor, CT 06074

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: 2/22/2020

Dated: 2/26/2020

Adopted this 4 day of MAR, 2020 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission