

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by the Audit and Disclosure Unit	File No. 2019-163
In the Matter of a Referral by the Audit and Disclosure Unit	File No. 2019-166
In the Matter of a Referral by the Audit and Disclosure Unit	File No. 2020-026
In the Matter of a Referral by the Audit and Disclosure Unit	File No. 2020-058
In the Matter of a Referral by the Audit and Disclosure Unit	File No. 2020-060
In the Matter of a Referral by the Audit and Disclosure Unit	File No. 2021-027
In the Matter of a Referral by the Audit and Disclosure Unit	File No. 2021-034
In the Matter of a Referral by the Audit and Disclosure Unit	File No. 2021-141

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Lorraine Franco (hereinafter “Respondent”) and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

Factual Background

1. At all times relevant hereto, Respondent was the treasurer of the *Nursing Home Industry PAC* (the “Committee”), an ongoing political committee organized under the law of the State of Connecticut.
2. The Committee is an ongoing political committee in the State of Connecticut that has been in existence for more than twenty years.
3. Since at least the year 2000, Respondent has been the treasurer of the Committee.
4. Since on or before November 17, 2010 until on or after September 7, 2021, Donald Franco, Respondent’s spouse, was the registered chairperson of the Committee.
5. On or about December 8, 2016, Donald Franco died.

Failure to File Financial Disclosure Statements

6. General Statutes § 9-608 (a) (1) 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, 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, (iii) in the case of a candidate committee in a state election that is required to file any supplemental campaign finance statements pursuant to subdivisions (1) and (2) of subsection (a) of section 9-712, such supplemental campaign finance statements shall satisfy the filing requirement under this subdivision, and (iv) in the case of a candidate committee established by a candidate whose name is not eligible to appear on the ballot, such statement shall not be required, and (C) if the committee has made or received a contribution or expenditure in connection with any other election, a primary or a referendum, on the seventh day preceding the election, primary or referendum, except that in the case of a candidate committee in a primary that is required to file statements pursuant to subdivisions (1) and (2) of subsection (a) of section 9-712, such statements shall satisfy the filing requirement under this subdivision. The statement shall be complete as of eleven fifty-nine o'clock p.m. of the last day of the month preceding the month in which the statement is required to be filed, except that for the statement required to be filed on the seventh day preceding the election, primary or referendum, the statement shall be complete as of eleven fifty-nine o'clock p.m. of the second day immediately preceding the required filing day. 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.

7. On or about April 10, 2019, Respondent filed a financial disclosure statement for the Committee, as required by General Statutes § 9-608.
8. A financial disclosure statement for the Committee was due on July 7, 2019.
9. A financial disclosure statement for the Committee was due on October 10, 2019.
10. A financial disclosure statement for the Committee was due on January 10, 2020.
11. A financial disclosure statement for the Committee was due on April 13, 2020.
12. A financial disclosure statement for the Committee was due on July 10, 2020.
13. A financial disclosure statement for the Committee was due on October 13, 2020.
14. A financial disclosure statement for the Committee was due on January 11, 2021.

15. A financial disclosure statement for the Committee was due on April 12, 2021.
16. Pursuant to the requirements of General Statutes § 9-623 (b), for each financial disclosure statement that was due for the Committee and missed by Respondent, Commission staff sent a letter to Respondent, via certified mail, advising her of the missed filing, and advising her that if she failed to file within the statutory period, the matter would be referred to for enforcement.
17. Since April 10, 2019 through at least September 7, 2021, no financial disclosure statement has been filed for the Committee.
18. No termination report for the Committee has been filed as of September 20, 2021.
19. Based upon the foregoing, the Commission initiated enforcement matters concerning Respondent's failure to file financial disclosure statements under Commission file numbers 2019-163, 2019-166, 2020-026, 2020-058, 2020-060, 2021-027, 2021-034, 2021-140.
20. Based upon the foregoing, the Commission determines that Respondent violated General Statutes § 9-608 when she: 1) failed to file financial disclosure statements due on July 7, 2019, October 10, 2019, January 10, 2020, April 13, 2020, July 10, 2020, October 13, 2020, January 11, 2021, and April 12, 2021; and 2) failed to correct that problem within the statutory period after receiving notice from the Commission via certified mail.

Withdrawal of Committee Funds

21. On or about November 12, 2019, Respondent withdrew \$1,000 in cash from the Committee's account.
22. On or about January 9, 2019, Respondent withdrew \$129.07 in cash, the remaining balance, from the account for the Committee.
23. The aforementioned funds were kept in the possession of the Respondent.
24. General Statutes § 9-607 (g) provides:

(1) As used in this subsection, (A) "the lawful purposes of the committee" means: . . . (ii) for a political committee, the promoting of a political party, including party building activities, the success or defeat of candidates for nomination and election to public office or position subject to the requirements of this chapter, or the success or defeat of referendum questions, provided a political committee formed for a single referendum question shall not promote the success or defeat of any candidate, and provided further a legislative leadership committee or a legislative caucus committee may expend funds to defray costs for conducting legislative or constituency-related business which are not reimbursed or paid by the state; . . .

(2) Unless otherwise provided by this chapter, any treasurer, in accomplishing the lawful purposes of the committee, may pay the expenses of: (A) Advertising in electronic and print media; (B) any other form of printed advertising or communications including “thank you” advertising after the election; (C) campaign items, including, but not limited to, brochures, leaflets, flyers, invitations, stationery, envelopes, reply cards, return envelopes, campaign business cards, direct mailings, postcards, palm cards, “thank you” notes, sample ballots and other similar items; (D) political banners and billboards; (E) political paraphernalia, which is customarily given or sold to supporters including, but not limited to, campaign buttons, stickers, pins, pencils, pens, matchbooks, balloons, pads, calendars, magnets, key chains, hats, tee shirts, sweatshirts, frisbees, pot holders, jar openers and other similar items; (F) purchasing office supplies for campaign or political purposes, campaign photographs, raffle or other fund-raising permits required by law, fund-raiser prizes, postage, express mail delivery services, bulk mail permits, and computer supplies and services; (G) banking service charges to maintain campaign and political accounts; (H) subscriptions to newspapers and periodicals which enhance the candidacy of the candidate or party; (I) lease or rental of office space for campaign or political purposes and expenses in connection therewith including, but not limited to, furniture, parking, storage space, utilities and maintenance, provided a party committee or political committee organized for ongoing political activities may purchase such office space; (J) lease or rental of vehicles for campaign use only; (K) lease, rental or use charges of any ordinary and necessary campaign office equipment including, but not limited to, copy machines, telephones, postage meters, facsimile machines, computer hardware, software and printers, provided a party committee or political committee organized for ongoing political activities may purchase office equipment, and provided further that a candidate committee or a political committee, other than a political committee formed for ongoing political activities or an exploratory committee, may purchase computer equipment; (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; (M) travel, meals and lodging expenses of speakers, campaign or committee workers, the candidate and the candidate's spouse for political and campaign purposes; (N) fund raising; (O) reimbursements to candidates and campaign or committee workers made in accordance with the provisions of this section for campaign-related expenses for which a receipt is received by the treasurer; (P) campaign or committee services of attorneys, accountants, consultants or other professional persons for campaign activities, obtaining or contesting ballot status, nomination, or election, and compliance with this chapter; (Q) purchasing campaign finance reports; (R) repaying permissible campaign loans made to the committee that are properly reported and refunding contributions received from an impermissible source or in excess of the limitations set forth in this chapter; (S) conducting polls concerning any political party, issue, candidate or individual; (T) gifts to campaign or committee workers or purchasing flowers or other commemorative items for political purposes not to exceed one hundred dollars to any one recipient in a calendar year or for the

campaign, as the case may be; (U) purchasing tickets or advertising from charities, inaugural committees, or other civic organizations if for a political purpose, for any candidate, a candidate's spouse, a member of a candidate's campaign staff, or members of committees; (V) the inauguration of an elected candidate by that candidate's candidate committee; (W) hiring of halls, rooms, music and other entertainment for political meetings and events; (X) reasonable compensation for public speakers hired by the committee; (Y) transporting electors to the polls and other get-out-the-vote activities on election day; and (Z) any other necessary campaign or political expense.

...

(4) As used in this subdivision, expenditures for "personal use" include expenditures to defray normal living expenses for the candidate, the immediate family of the candidate or any other individual and expenditures for the personal benefit of the candidate or any other individual having no direct connection with, or effect upon, the campaign of the candidate or the lawful purposes of the committee, as defined in subdivision (2) of this section. No goods, services, funds and contributions received by any committee under this chapter shall be used or be made available for the personal use of any candidate or any other individual. No candidate, committee, or any other individual shall use such goods, services, funds or contributions for any purpose other than campaign purposes permitted by this chapter.

25. Respondent, through counsel, stated to Commission staff that the aforementioned withdrawals were withdrawn from the Committee's account on the advice of her bookkeeper who did not understand that, though the other accounts associated with Respondent's nursing homes could have been liquidated, this one had additional legal restrictions associated with it as a committee account under the jurisdiction of the Commission.
26. Accordingly, it is the determination of the Commission that Respondent violated General Statutes § 9-607.

Penalty

27. Non-filer matters are typically resolved under a general authorization granted to Commission staff to resolve such matters without the requirement of individualized consideration by the Commission. Given the extent of the non-compliance and the extenuating circumstances detailed hereinafter, this matter has been brought to the Commission through the standard Consent Order resolution procedures.
28. Respondent has a history of non-compliance concerning the filing of financial disclosure statements in connection with this Committee.

29. On or about February 10th, 2016, the Commission voted to approve a final decision in *In the Matter of a Referral by the Campaign Disclosure and Audit Unit of the State Elections Enforcement Commission*, File No. 2014-198NF in which Respondent, as treasurer of the Committee, was assessed a civil penalty of \$1,000 for failure to file a financial disclosure statement “[o]n or before October 28, 2014[.]” *Id.* at 2. Respondent did not appear for the hearing. *Id.* at 1.
30. After failing to pay the civil penalty assessed by the Commission, *In the Matter of a Referral by the Campaign Disclosure and Audit Unit of the State Elections Enforcement Commission*, File No. 2014-198NF was referred to the Attorney General for collection on or about November 23, 2016.
31. On or about February 24, 2017, Respondent paid the civil penalty assessed by the Commission concerning *In the Matter of a Referral by the Campaign Disclosure and Audit Unit of the State Elections Enforcement Commission*, File No. 2014-198NF.
32. Moreover, in addition to the extensive General Statutes § 9-608 violations discovered in this matter, the withdrawal of Committee funds is another area of significant concern for the Commission. Historically, the Commission has taken a very firm stand concerning so called “personal use” cases. In fact, dating back to 2008, the Commission stated, “The Commission finds that the use of political committee funds for personal use to be a serious and grave act, in particular, receiving reimbursement from the State of Connecticut as well as from GAF PAC, even if unintentional.” *In the Matter of Government Action Fund (GAF PAC)*, File No. 2008-003. *See also In re Audit Report for Friends of Gerry Garcia*, File No. 2012-072 (\$500 civil penalty to a treasurer for authorizing the use of candidate committee funds to pay for personal items for the candidate.
33. Respondent asserts that such withdrawal was a mistake, and fully disclosed such conduct to the Commission when asked. However, mistake, even if honest, cannot excuse the withdrawal of committee funds from the account of a political committee by a treasurer for personal use.
34. As part of Respondent’s answer to the Commission concerning these issues, Respondent provided detailed documentation of her own financial situation. Such documentation showed limited income in the form of Social Security benefits and limited assets. Counsel for Respondent further represented that Respondent’s remaining assets were in the course of being liquidated and/or foreclosed to pay liabilities which far exceeded the value of the assets.
35. Based upon the foregoing, the Commission determines that a significant civil penalty is appropriate, but, due to demonstrated financial hardship, collection of such penalty shall be suspended for a period of two years and, after such time, if Respondent remains in compliance with the remainder of the order, such civil penalty shall be rescinded.

Terms of General Application

36. 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 after a full hearing and shall become final when adopted by the Commission.
37. Respondent shall receive a copy hereof as provided in section 9-7b-56 of the Regulations of Connecticut State Agencies.
38. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used by either party as an admission in any subsequent hearing, if the same becomes necessary.
39. Respondent waives:
 - a. any further procedural steps;
 - b. the requirement that the Commission's decision contain a 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.
40. Upon Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent.

ORDER

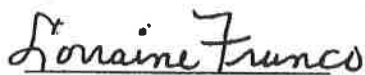
IT IS HEREBY ORDERED THAT Respondent shall:

- 1) disgorge to the Citizens Election Fund the \$1,129.05 improperly withdrawn from the Committee's account;
- 2) never again serve as a treasurer of any committee subject to the jurisdiction of the Commission;
- 3) agree that the *Nursing Home Industry PAC* shall be administratively terminated by operation of this Agreement and Order; and
- 4) be assessed a civil penalty of \$18,000, but the collection of the civil penalty in this matter shall be suspended for a period of two years. If, during that time, Respondent complies with the other provisions of this order, the civil penalty shall be rescinded due to demonstrated financial hardship.

The Respondent:

For the State of Connecticut:

By:



Lorraine Franco

42 Montgomery Rd
Northford, CT 06472

By:




Michael J. Brandi, Esq.,
Executive Director and General
Authorized Representative of the State
Elections Enforcement Commission
55 Farmington Ave., 8th Floor
Hartford, CT 06105

Dated: _____

Dated: 9/21/2021

Adopted this 6th day of October, 2021 at Hartford, Connecticut


STEPHEN T. PENNY
By Order of the Commission