

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Philp S. Augur,
Durham

File No. 2021-129A

AGREEMENT CONTAINING A CONSENT ORDER

This Agreement by and between Eileen Buckheit, Town of Durham, 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. Complainant alleged that a group known as "Durham for Korn," aka "DfK," failed to include an attribution on a mailing advocating a "yes" vote at a May 4, 2021 referendum in the Town of Durham as required by General Statutes § 9-621. Complainant further alleged that the group failed to properly register as a committee and report its expenses incurred but not paid, as required by § 9-605 and § 9-608, respectively.
2. More specifically, Complainant alleged that:
 - (1) *"Durham for Korn" ("DfK") sent a mass mailing to Postal Patrons of the town of Durham encouraging recipients to vote YES at the May 4, 2021 referendum. This mailer did not disclaimer/attribution to identify "Paid for by" and the name of its treasurer or agent. [9-621]*
 - (2) *DfK did not disclose the date of expenditures for the printing and production of the mailing; and it is therefore unclear whether they met deadline for registering or filing exemption from forming PAC. [9-605]*
 - (3) *DfK did not accurately disclose "period covered," until after the fact of mailing. DfK did not report date of expense incurred by not paid date; this reporting also obscures when registration/exemption filing was required. [9-608]*
3. This final decision is limited to Respondent and Allegation Two. Allegations One and Three and any additional individuals are treated under a separate agreement.

4. By way of background, the Town of Durham held a Special Town Meeting on April 27, 2021, which adjourned to a referendum scheduled for May 4, 2021.

5. General Statutes § 9-605, provides in pertinent part:

...

(d) A group of two or more individuals who have joined solely to promote the success or defeat of a referendum question shall not be required to file as a political committee, make such designations in accordance with subsections (a) and (b) of this section or file statements pursuant to section 9-608, if the group does not receive or expend in excess of one thousand dollars for the entire campaign. *If the group receives funds or makes or incurs expenditures exceeding one thousand dollars in the aggregate, the group shall complete the statement of organization and file as a political committee not later than three business days thereafter.* The group shall provide the designated treasurer with all information required for completion of the statements for filing as required by section 9-608.
[Emphasis added.]

6. It is not disputed that Respondent, along with Karen Cheyney, engaged in an effort to organize support and advocate for a “yes” vote on the May 4, 2021 referendum.
7. After investigation, the Commission finds that Respondent registered DfK with the Durham Town Clerk’s office as a political committee to support a “yes” vote on the referendum. Further, the Commission finds that Respondent designated Karen Cheyney as treasurer of DfK.

Allegation Two

8. Complainant alleges that Respondent made expenditures that were promotional of a “yes” vote but failed to register a political committee as required by § 9-605.
9. General Statutes Sec. 9-605 (d) requires that a group of two or more individuals “...who have joined solely to promote the success or defeat of a referendum question [and] receives funds or makes or incurs expenditures exceeding one thousand dollars in the aggregate, ... shall complete the statement of organization and file as a political committee not later than three business days thereafter.”

10. After investigation, it was determined that Respondent and others constituted two or more individuals that through DfK advocate a "yes" vote on a referendum.
11. The Commission finds that on Wednesday, April 28, 2021 the amount of \$1,655.82 was incurred on behalf of Respondent and others in their efforts for their production and dissemination of materials pertaining the May 4, 2021 referendum in Durham.
12. General Statutes § 9-605 required that Respondent register a committee within three business days of incurring the amount of \$1,655.82 to be used to advocate for a referendum. More specifically, based on the facts in this instance, a filing would have been due on April 30, 2021, pursuant to General Statutes § 9-605.
13. The Commission finds that the DfK registration with the Durham Town Clerk was filed on May 3, 2021; or, one business day *after* it was due based on the date of the expense incurred but not paid and the requirements of General Statutes § 9-605.
14. The Commission concludes therefore that the Respondent, as DfK Chair, failed to meet the requirement of § 9-605 by filing a late registration statement.
15. The Respondent admits all jurisdictional facts and concurs 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. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
16. 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 contest the validity of the Order entered into pursuant to this Agreement.
17. 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 either of the parties in any subsequent hearing, if the same becomes necessary.

ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with General Statutes § 9-605.

The Respondent

For the State of Connecticut

By: Eileen Buckheit
Eileen Buckheit
429 Johnson Lane
Durham, Connecticut

By: Michael J. Brandi, Esq.
Michael J. Brandi, Esq.
Executive Director and General Counsel
And Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: 1/10/22

Dated: 3/21/2022

Adopted this 6th day of April 2022 at Hartford, Connecticut by vote of the Commission.

Stephen T. Penny
Stephen T. Penny, Chairman
By Order of the Commission