

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by the Audit and Disclosure Unit
of the SEEC re “Rogers 2018”

File No. 2023-008

AGREEMENT CONTAINING CONSENT ORDER

This agreement, by and between James Sinclair of the Town of Southington, County of Hartford, State of Connecticut (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:

1. The Commission on December 21, 2022 initiated an investigation into “Rogers 2018,” based on a referral by the Audit and Disclosure Unit after a post-election review determined that Respondent returned surplus to the Citizens’ Elections Fund (“CEF”) in the amount of \$6,678.53 or approximately 2 ½ years after it was due.
2. On January 12, 2018, Ryan Rogers registered the candidate committee “Rogers 2018” (hereinafter “Committee”) for his campaign for state representative for the 81st General Assembly district. He designated Theodore Cabata as treasurer and Respondent as deputy treasurer of the Committee.
3. The Commission determined in reviewing this matter that Respondent, as deputy treasurer of the Committee, effectively served as the committee treasurer at all times relevant. Further, it was determined that Theodore Cabata, was not involved with the late transfer of surplus to the CEF, which resulted in this audit referral.
4. This disposition is limited to Respondent. The matter is otherwise dismissed as to additional named Respondents¹.
5. General Statutes § 9-606 states, in part:
The treasurer of each committee shall be responsible for (1)
depositing, receiving and reporting all contributions and other

¹ Candidate Ryan Rogers and Committee treasurer Theodore Cabata were also identified by the Commission as potential Respondents in this matter.

funds in the manner specified in section 9-608, (2) making and reporting expenditures, (3) reporting expenses incurred but not yet paid, (4) filing the statements required under section 9-608, and (5) keeping internal records of each entry made on such statements. The treasurer of each committee shall deposit contributions in the committee's designated depository not later than twenty days after receiving them.

6. General Statutes § 608 (e) (1) sets forth the deadline for distributing surplus funds from a candidate committee after a general election and provides:

Notwithstanding any provisions of this chapter, in the event of a surplus the treasurer of a candidate committee or of a political committee, other than a political committee formed for ongoing political activities or an exploratory committee, shall distribute or expend such surplus not later than ninety days, or for the purposes of subparagraph (H) of this subdivision, one hundred twenty days after a primary which results in the defeat of the candidate, an election or referendum not held in November or by March thirty-first following an election or referendum held in November, ***or for the purposes of subparagraph (H) of this subdivision, June thirtieth following an election or referendum held in November.*** [Emphasis Added.]

Post-Election Review

7. The Committee was reviewed as part of the Commission's post-election audit process in connection with the 2018 election cycle. Candidate Rogers applied for a grant from the Citizen's Election Fund and received \$28,150 in grant funds.
8. For the 2018 election cycle any unspent surplus funds from the CEF needed to be returned to the CEF no later than July 8, 2019. *See* General Statutes § 608 (e) (1). According to the termination report filed for the Committee on July 8, 2019, however, the committee had a balance of \$7,469.66.
9. Respondent ultimately delivered a bank check to the CEF on January 12, 2022, in the amount of \$6,678.53, which was less than the final reported amount at the time of the Committee's termination report and approximately 2 ½ years after the funds were due.

Facts After Investigation

10. Respondent, by his counsel, responded to this investigation by providing bank statements and other supporting documentation from the Rogers 2018 committee.

11. Further, Respondent explained the discrepancy between the balance reported on his termination report of 7,469.66 and the delivery of a bank check in the amount of \$6,678.53, which he identified as “surplus.” As to this discrepancy Respondent explained, with supporting documentation, as follows:

After a review of ... records, it appears that there were unintentional errors in the reports submitted into the SEEC system. The reported balance of \$7,469.66 was incorrect due to the following items being inaccurately reported:

- 1. The bank fees from the opening of the account until the July 8, 2019 termination date were actually \$216 but were reported as \$36- variance of \$180 ...*
- 2. There was an expense of \$26.15 on 4/13/18 to Harland Clark for checks which was not reported ...*
- 3. The total payments to DNA Consulting were in the amount of \$24,376.61 but only \$24,016.20 was reported- variance of \$360.45 ...*
- 4. The deposits into the account were underreported in the amount of \$76.17*

Items 1-3 above total \$566.60 of unreported expenses. When reduced by the underreported deposits of \$76.17, the variance is \$490.43 and explains the difference between the amount of the surplus check and the termination amount reported.

12. The Commission, upon review of the response and supporting documentation, determines that Respondent has provided an adequate explanation of the discrepancy between the original balance reported on the Committee’s termination report and the amount of surplus returned to the CEF.
13. Pertaining to the late return of surplus to the CEF, Respondent asserts that he did not close the account because he was waiting to hear from Commission staff about the audit and wanted to keep the account open in anticipation of any additional transactions that might be required based on its findings.
14. Specifically, Respondent asserts that he was made aware that Candidate Rogers was contacted by Commission staff on or about January 12, 2022 “with an urgent request to get the account closed.” Further, Respondent asserts that:
- [He] closed the account on January 12, 2022 and asked for a bank check for the balance in the account. He then drove the check over to the SEEC office and submitted it the same day along with*

additional bank statements through that date. The reason that the surplus check was in the form of a bank check was that he understood that he needed to close the account immediately and that would not be possible if he wrote the surplus check with a check from the account.

15. After investigation, a review of the bank statements and transaction history for the Committee account indicate that there were no transactions between December 31, 2021 and the account closing date of January 12, 2022.

Commission Conclusions

16. In connection with the 2018 election cycle any unspent surplus funds from the CEF needed to be returned to the CEF no later than July 8, 2019. *See* General Statutes § 608 (e) (1).
17. The Commission finds that Respondent returned surplus funds for the Committee to the CEF on January 12, 2022, in the amount of \$6,678.53. The funds were due on July 8, 2019 and therefore the return of funds was 927 days late; or approximately 2 ½ years after they were due.
18. The Commission therefore concludes, for the reasons detailed herein, that Respondent violated General Statutes § 9-606 and § 9-608 by failing to return unspent surplus funds to the CEF by the statutory deadline, as required by those sections.

Penalty Considerations

19. As enumerated in § 9-7b-48 of the Regulations of Connecticut State Agencies provides: In its determination of the amount of the civil penalty to be imposed, the Commission shall consider, among other mitigating or aggravating circumstances:
 - (1) the gravity of the act or omission;
 - (2) the amount necessary to insure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions;and
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
20. The Commission has historically viewed and treated failures to return surplus funds to the CEF in a timely matter as serious violations. In this instance, the Committee's surplus funds were only finally disgorged by Respondent some 927 days late.

21. In a similar matter, *SEEC File No. 2013-92, SEEC Initiated Investigation of Ralph Lewis, Treasurer for the Kelly for Senate 2012 Committee*, the committee was 71 days past the statutory deadline and received a \$1,000 fine. In another matter, *SEEC File No. 2012-026, In Re "DeFronzo for State Senate", Commission Initiated Complaint*, the committee was 11 months late and received a \$800 fine.
22. The Commission views the violations by Respondent in this instance as substantial and egregious. The Commission determines that a significant penalty is warranted under these circumstances and consistent with its authority deems a payment of \$1,000.00 by Respondent necessary to reflect the seriousness with which the Commission assesses his acts and omissions. *See Regs., Conn. State Agencies § 9-7b-48.*
23. 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.
24. 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.
25. 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 Respondent shall henceforth strictly comply with General Statutes § 9-606 and § 9-608.

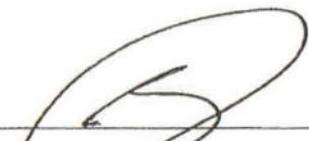
IT IS HEREBY FURTHER ORDERED that Respondent shall pay a civil penalty of \$1,000.00; with \$500.00 remitted based on Respondent's sufficient representation of financial hardship.

The Respondent

For the State of Connecticut

By:

By:



James T. Sinclair
74 Hobart Street
Southington, Connecticut

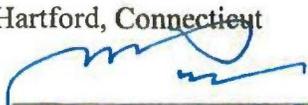


Michael J. Brandi, Esq.
Executive Director and General Counsel
And Authorized Representative of the
State Elections Enforcement Commission
55 Farmington Ave., 8th Floor
Hartford, Connecticut

Dated: 5/29/24

Dated: 6/28/24

Adopted this 30th day of July, 2023 at Hartford, Connecticut



Stephen L. Phares
Commissioner
By Order of the Commission

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Commissioner
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