**STATE OF CONNECTICUT**

**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Referral by a SEEC Elections Officer

RESPONDENT:
Walter J. Moriarty
7 South Canterbury Road
Canterbury, CT 06331

File No. 2013-023NF

## FINAL DECISION

This matter was heard as a contested case on June 12, 2013 pursuant to Chapter 54 of the Connecticut General Statutes, § 9-7b of the Connecticut General Statutes and § 9-7b-35 of the Regulations of Connecticut State Agencies, at which time Attorney Patrick Lamb appeared on behalf of the State of Connecticut and the Respondent, Walter J. Moriarty, appeared. Documentary and testimonial evidence was presented.

After careful consideration of the entire record, the following facts are found and conclusions of law are made:

1. Michael J. Brandi was designated as permanent Hearing Officer for hearings concerning alleged violations of General Statutes § 9-608 on March 21, 2012 by order of the State Elections Enforcement Commission.

2. Canterbury First has been registered as a party committee since at least March 13, 2010. ***Joint Exhibit 1.*** The Respondent served as treasurer of Canterbury First from March 13, 2010 until his resignation on February 4, 2013. ***Joint Exhibit 1.***

3. General Statutes § 9-608 (a) provides, in relevant part, as follows: "(1) **Each campaign 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, (B) on the seventh day preceding each regular state election, except that . . . (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, 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." (Emphasis added.)

4. General Statutes § 9-623 (b) provides as follows: "(1) If any campaign treasurer fails to file any statement required by section 9-608, or if any candidate fails to file either (A) a statement for the formation of a candidate committee as required by section 9-604, or (B) a certification pursuant to section 9-603 that the candidate is exempt from forming a candidate committee as required by section 9-604, within the time required, the campaign treasurer or candidate, as the case may be, shall pay a late filing fee of one hundred dollars.

(2) In the case of any such statement or certification that is required to be filed with the State Elections Enforcement Commission, the commission shall, not later than ten days after the filing deadline is, or should be, known to have passed, notify by certified mail, return receipt requested, the person required to file that, if such statement or certification is not filed not later than twenty-one days after such notice, the person is in violation of section 9-603, 9-604 or 9-608."

5. On January 10, 2013, the Respondent was required to file a financial disclosure statement on behalf of Canterbury First per General Statutes § 9-608 (a) (1) (A), but did not. ***Joint Exhibit 1.***

6. On January 22, 2013, Commission staff sent a letter to the Respondent, by certified mail, return receipt requested, stating that the Commission had not received a financial disclosure statement from him that was due on January 10, 2013. ***State's Exhibit 6.*** The letter imposed a $100 late fee and requested that he file the statement within 21 days. ***State's Exhibit 6.*** The letter warned that if the Respondent did not submit the statement within 21 days, the Commission may order a public hearing and he could be subject to a civil penalty of up to $2,000. ***State's Exhibit 6.***

7. On April 2, 2013, Commission staff sent a letter to the Respondent, stating that the Commission had still not received a financial disclosure statement from him that was due on January 10, 2013. ***State's Exhibit 7.*** The letter explained that the Respondent was subject to a civil penalty between $200 and $2,000 but that he could avoid further enforcement of the matter if he submitted the statement and a payment of $200 by April 16, 2013. ***State's Exhibit 7.*** The letter was sent by certified mail. ***State's Exhibit 7.***

8. On May 8, 2013, notice of the June 12, 2013 hearing was sent to the Respondent by first-class mail with delivery confirmation tracking and receipt and by certified mail and regular mail at the address provided on the committee registration statement on file with the Commission. ***State's Exhibits 1 and 3.*** The notice was also sent in the same time and manner to a secondary address that was listed as the Respondent's address according to the Connecticut Voter Registration System. ***State's Exhibit 1.***

9. On June 12, 2013, the Respondent filed the statement that was due January 10, 2013, making it 153 days late. ***State's Exhibit 10; Joint Exhibit 1.*** The filing reflected no financial activity during the period covered. ***State's Exhibit 10.***

10. The Respondent attended the June 12, 2013 hearing.

11. At the hearing, the Respondent testified that due to personal circumstances, he intended to and believed he had resigned as treasurer of Canterbury First and therefore had no obligations to submit the filing. ***Testimony of William Moriarty.*** He testified that he thus

had no intention of ignoring state statutes or his responsibilities as treasurer. ***Testimony of Mr. Moriarty.*** He further testified that he had called the Commission and was told by a staff member that if the committee had no money, they had no party; however, he could not recall the identity of the staff member and did not have any sort of record or other evidence of the conversation. ***Testimony of Mr. Moriarty.*** Commission staff had no evidence of such a conversation. ***Testimony of Elections Officer Andrew Cascudo.***

12. The Respondent admitted and acknowledged that his late filing represents a violation of General Statutes § 9-608 with civil penalties mandated by General Statutes § 9-623 in the range of $200 to $2,000. ***Joint Exhibit 1.***

13. On June 12, 2013, the Respondent signed an irrevocable waiver of his right to serve as a treasurer or a deputy treasurer for purposes of Chapters 155 and 157 of the Connecticut campaign finance statutes and waived his right to object to any order of the Commission imposing such a ban, even if such a ban is not based on a finding of intentional violation or limited to a five year duration. ***Joint Exhibit 2.***

14. It is concluded that the Respondent violated General Statutes § 9-608 by failing to timely file a financial disclosure statement on January 10, 2013.

15. Evidence was presented that Commission staff was persistent and rigorous in its efforts to contact the Respondent about the delinquent filing. ***State's Exhibits 1, 6, and 7.***

16. General Statutes § 9-7b (a) (2) provides, in pertinent part, that the Commission shall have the power to levy a civil penalty not to exceed "two thousand dollars per offense or twice the amount of any improper payment or contribution, whichever is greater, against any person the commission finds to be in violation of any provision of chapter 155 or 157." The Commission may levy a civil penalty against any person only after giving the person an opportunity to be heard at a hearing. *See* General Statutes § 9-7b (a) (2).

17. General Statutes § 9-623 (b) (4) provides, in pertinent part, that "[t]he penalty for any violation of section . . . 9-608 . . . shall be a fine of not less than two hundred dollars or more than two thousand dollars or imprisonment for not more than one year, or both."

18. Section 9-7b-48 of the State of Connecticut Regulations 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."

19. It was recommended that the Commission consider the following as an aggravating circumstance per § 9-7b-48, Regs., Conn. State Agencies: (1) Commission staff both informed the Respondent of his duties as treasurer and made diligent efforts to contact him about the missed filing.

20. It was recommended that the Commission consider the following as mitigating circumstances per § 9-7b-48, Regs., Conn. State Agencies: (1) the Respondent had filed the January 10, 2013 statement on the morning of the hearing, showing good faith in attempting to comply; (2) the filing that was ultimately submitted showed no activity for the period covered, lessening the gravity of the delay in publicly disclosing the information; (3) the Respondent testified that he believed he had successfully resigned by the time the filing was due and therefore did not have any duty to complete the filing; and (4) the Respondent agreed to waive his right to serve as treasurer or deputy treasurer for purposes of the Connecticut campaign finance statutes.

21. In consideration of the factors listed above, it was recommended that the Commission: (1) prohibit the Respondent from serving as a treasurer or deputy treasurer of any committee organized under Chapter 155 of the Connecticut General Statutes for a period of four years from the date of the Commission's final decision on this matter; and (2) assess a civil penalty against the Respondent in the amount of $500.00 for his violation of General Statutes § 9-608 but suspend said penalty in light of his agreement to waive his right to serve as treasurer or deputy treasurer, and upon satisfaction of this four year prohibition, the Commission should not refer the matter to the Office of the Attorney General for any collection action.

The following Order is adopted on the basis of these findings and conclusions:

**ORDER**

IT IS HEREBY ORDERED THAT the Respondent shall be prohibited from serving as treasurer or deputy treasurer of any committee organized under Chapter 155 of the Connecticut General Statutes for a period of four years from the date of this final decision, pursuant to General Statutes § 9-7b (a) (3) (B) (ii).

IT IS HEREBY ORDERED THAT the Respondent shall be assessed a civil penalty in the amount of $500.00, for violation of General Statues § 9-608, pursuant to General Statutes § 9-7b (a) (2), which shall be suspended in light of his agreement to waive his rights to serve as treasurer or deputy treasurer of any committee organized under Chapter 155 of the Connecticut General Statutes for a period of four years from the date of this final decision. Upon satisfaction of the condition set forth above, the Commission shall not refer the matter to the Office of the Attorney General for any collection action.

IT IS HEREBY ORDERED THAT, subject to compliance with this Order, after the period of four years, $300.00 of the civil penalty shall be vacated. After that time, upon payment of the remainder of the civil penalty, the Respondent may again act as treasurer or deputy treasurer pursuant to General Statutes § 9-606 (d) (as amended by Public Act 13-180), unless otherwise prohibited.

Adopted this 21st day of August, 2013 at Hartford, Connecticut by vote of the Commission.

Anthony J. Castagno, Chairman
By Order of the Commission

I certify the preceding final decision was sent to Walter J. Moriarty, 7 South Canterbury Road, Canterbury, CT 06331, first-class mail with delivery confirmation tracking and receipt and certified mail and regular mail on August 21, 2013.

Sheri-Lyn Lagueux
Clerk of the Commission