

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by a SEEC Elections Officer

RESPONDENT:
Michael E. Dougherty
24 Shore Drive
Woodstock, CT 06281

File No. 2012-116NF

FINAL DECISION

This matter was heard as a contested case on November 15, 2012 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, Michael E. Dougherty, did not appear. 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. This matter was referred to the Enforcement Unit of the State Elections Enforcement Commission (hereinafter the "Commission") by Elections Officer Nancy Staniewicz on or after August 10, 2012. *State's Exhibit 14.*
3. The Woodstock Republican Town Committee has been registered as a party committee with the State Elections Enforcement Commission from August 13, 1974 to the present. *State's Exhibit 14.* The Respondent served as treasurer of the Woodstock Republican Town Committee from April 11, 2012 until November 8, 2012. *State's Exhibits 3, 4, and 14; Testimony of Ms. Staniewicz.*
4. 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.)

5. 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.”
6. On July 10, 2012, the Respondent was required to file a financial disclosure statement on behalf of the Woodstock Republican Town Committee per General Statutes § 9-608 (a) (1) (B) (ii), but did not. *State’s Exhibits 8 and 14.*
7. On July 20, 2012, Ms. Staniewicz 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 July 10, 2012. *State’s Exhibits 6 and 14.* The letter imposed a \$100 late fee and requested that he file the statement within 21 days. *State’s Exhibit 6.* The letter also 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.* Delivery to the Respondent was confirmed. *State’s Exhibit 6; Testimony of Ms. Staniewicz.*
8. After 21 days had expired, and no disclosure statement was filed, Ms. Staniewicz referred the matter to the Commission’s Enforcement Unit. *State’s Exhibit 14.* Failure to file within the prescribed time period after notice is given is a *per se* violation of General Statutes § 9-608. See General Statutes § 9-623 (b) (2).
9. On September 5, 2012, Paralegal Specialist Evelyn Gratacos sent a letter to the Respondent, stating that the Commission had still not received a financial disclosure statement from him that was due on July 10, 2012. *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 specified payment by September 25, 2012. *State’s Exhibit 7; Testimony of Ms. Gratacos.* Delivery to the Respondent was confirmed. *State’s Exhibit 7; Testimony of Ms. Gratacos.*
10. On October 12, 2012, notice of the November 15, 2012 hearing was sent to the Respondent by first-class mail with delivery confirmation tracking and receipt and certified mail and regular mail at the address provided on the committee registration statement on file with the

Commission as well as on his current voter registration. *State's Exhibits 1, 3, and 12.* Delivery to the Respondent was confirmed. *State's Exhibit 1; Testimony of Ms. Gratacos.*

11. The Respondent neither appeared at the hearing nor responded to the Commission's notice of hearing.
12. As of the morning of the November 15, 2012 hearing, the Respondent had not submitted the filing due July 10, 2012. *Testimony of Ms. Staniewicz.*
13. It is concluded that the Respondent violated General Statutes § 9-608 by failing to timely file a financial disclosure statement on July 10, 2012 and by failing to file the statement within the 21 days after Ms. Staniewicz's notice.
14. Evidence was presented that Commission staff was persistent and rigorous in its efforts to contact the Respondent about the delinquent filing. *State's Exhibits 6, 7, and 8; Testimony of Ms. Staniewicz; Testimony of Ms. Gratacos.*
15. Evidence was also presented that the Commission previously found that the Respondent had violated General Statutes § 9-608 on two other occasions by untimely filing the October 2011 quarterly and seventh day preceding the November 2011 election filings. *See In the Matter of a Referral by a SEEC Elections Officer*, File Nos. 2011-159NF and 2011-167NF. *State's Exhibit 10.* A fine in the amount of \$400, \$200 for each violation, was levied against the Respondent, the minimum required by law. *State's Exhibit 10.* The decision also ordered the Respondent to amend the filings because they were incomplete. *State's Exhibit 10.* The Respondent did not pay and the Commission subsequently referred the case to the Connecticut Attorney General for further enforcement. *State's Exhibits 11 and 13; Testimony of Ms. Gratacos; Testimony of Elections Officer Andrew Cascudo.* As of the morning of the November 15, 2012 hearing, he had not amended these filings. *Testimony of Ms. Staniewicz.*
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. In consideration of the factors listed in § 9-7b-48, Regs., Conn. State Agencies, in particular, that (1) the Respondent neither responded to the notice of hearing nor attended the November

15, 2012 hearing, (2) the Respondent, as of the date of the hearing, had not submitted the required statement and has therefore failed to provide the public with *any* disclosure of the committee's activities for the period covered by that filing, (3) Commission staff both informed the Respondent of his duties as treasurer and made diligent efforts to contact him both about the missed filing and the scheduled hearing, and (4) the Respondent was previously found to have missed two prior filings in violation of General Statutes § 9-608, exhibiting a history of similar acts or omissions, it was recommended that the Commission assess a civil penalty against the Respondent in the range of \$ 1,500 to \$1,750 for his violation of General Statutes § 9-608 and require him to submit the filing.

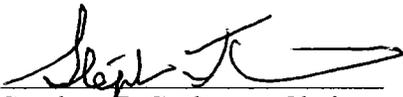
The following Order is adopted on the basis of these findings and conclusions:

ORDER

IT IS HEREBY ORDERED THAT the Respondent, or his agent, shall file the financial disclosure statement that was due to be filed on July 10, 2012 within 30 days of notice of this decision pursuant to General Statutes § 9-7b (a) (3) (F).

IT IS HEREBY ORDERED THAT the Respondent shall pay a civil penalty in the amount of \$1,625.00 payable to the State Elections Enforcement Commission, within 30 days of notice of this decision, for violation of General Statutes § 9-608, pursuant to General Statutes § 9-7b (a) (2).

Adopted this 19th day of December, 2012 at Hartford, Connecticut by vote of the Commission.


Stephen F. Cashman, Chairman
By Order of the Commission

I certify the preceding final decision was sent to Michael E. Dougherty, 24 Shore Drive, Woodstock, CT 06281, first-class mail with delivery confirmation tracking and receipt and certified mail and regular mail on December 19, 2012.


Sheri-Lyn Lagueux
Clerk of the Commission