RECEIVED
STATE ELECTIONS
JAN 16 2009
ENFORCEMENT
COMMISSION

STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Marie G. Hamilton, Hartford

File No.2008-093

AGREEMENT CONTAINING CONSENT ORDER FOR VIOLATION OF CONNECTICUT GENERAL STATUTES §§9-606(a), 9-607(f), 9-608(c) & REGULATIONS OF CONNECTICUT STATE AGENCIES § 9-706-1

This agreement by and between David Canuel, of the City of Hartford, County of Hartford, State of Connecticut, hereinafter referred to as Respondent, and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with §9-7b-54 of the Regulations of Connecticut State Agencies and §4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Respondent is the treasurer of the Sierra 2008 committee. Sierra 2008 was the committee of Carmen Sierra, a petitioning candidate seeking the Democratic nomination for the Office of State Representative for the 6th Assembly District in the August 12, 2008 Democratic primary.

2. Carmen Sierra was a participating candidate in the Citizens' Election Program. She applied, qualified for and received a grant from the Citizens' Election Fund under the Citizens' Election Program on July 23, 2008.

3. Carmen Sierra's qualified for ballot access in the primary, based on the number of certified signatures collected, on June 19, 2008. However, based upon Conn. Gen. Stat. § 9-700(11), the date that the primary period expenditure limit began was the date that her opponent, Hector Robles, was endorsed by the Hartford Democratic Town Committee, May 29, 2008.

4. Complainant alleged that "*The campaign for Carmen Sierra for State Representative in the 6th Assembly District has violated the reporting requirements of its campaign expenditures during the 'qualifying period' prior to approval of funds from the CT Citizens Election Program. This campaign has clearly exceeded the $5,000 expenditure limit required by law. The following activities are documented in this complaint:*

    1. *Professionally printed campaign mailer distributed via US Postal Service. This mailer arrived on or about July 22nd*
    2. *Professionally printed lawn signs distributed throughout the district.*
    3. *Half page, full color advertising in Identidad Latina newspaper, priced at $486.*
    4. *Campaign office operating at 643 Maple Avenue. No rent or utilities payments are reported.*"

5. The expenditure limit for the qualifying period before a primary campaign and a general election campaign is the sum of qualifying contributions plus any personal funds of the candidate. The "primary campaign" spending limit begins the day after the caucus or convention where the candidate is endorsed, as described in Conn. Gen. Stat. § 9-700(11),

here May 29, 2008. The primary campaign spending limit is the sum of qualifying contributions, personal funds and the grant received, pursuant to Conn. Gen. Stat. § 9-702(c).

6. Since Carmen Sierra was in a party dominant district (Democrat), her grant for the primary was $25,000; therefore increasing her expenditure limit to $30,000, on the effective date the primary campaign began, May 29, 2008.

7. The Sierra 2008 candidate committee spent no more than $544.56 prior to candidate Sierra obtaining ballot status on June 19, 2008.

8. It is therefore concluded that the Sierra 2008 committee did not violate the expenditure limit during the qualifying or pre-primary campaign period.

9. The Sierra 2008 committee and Respondent Canuel were required to file *Itemized Campaign Finance Disclosure Statement* (SEEC Form 30) before applying for a grant. He filed such reports on July 10 and July17, 2008. The July 17th report contained contributions received and expenditures incurred as of July 16, 2008.

10. Respondent Canuel and the candidate, Carmen Sierra, signed the "*Citizens' Election Program-Application for Grant*" (SEEC Form CEP 15) on July 16, 2008 and July 17, 2008, respectively. A Grant Payment Authorization of $25,000 was approved and paid by the Commission on or about July 23, 2008.

11. The "*Expenses Incurred During this Period but not Paid*" sections of the July 10 and July 17, 2008 *Itemized Campaign Finance Disclosure Statements* (SEEC Form 30) did not contain the following expenses:

    a) Rental payments for Sierra 2008 committee headquarters, $800.00 (occupied 7-1-2008)
    b) Half page advertisement in Identidad Latina newspaper, $486 (deadline 7-11-2008)
    c) Lawn signs, Magnani Press, $1356.08 (7-8-2008)
    d) Campaign mailer, (Global Mail Express [$1684.75, invoiced 6-24-08])
    e) SD Associates provided the mailing list [$361.88, invoiced 7-16-08], and
    f) Magnani Express produced the flyers [$858.35, invoiced 7-16-08].

12. Connecticut General Statutes §9-606, provides in pertinent part:

    (a) **The campaign treasurer** of each committee **shall be responsible for** (1) depositing, receiving and reporting all contributions and other 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. ... [Emphasis added.]

13. Connecticut General Statutes §9-608, provides in pertinent part:

    (c) (1) **Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to:** (A) An itemized accounting of each contribution, if

any, including the full name and complete address of each contributor and the amount of the contribution; (B) in the case of anonymous contributions, the total amount received and the denomination of the bills; **(C) an itemized accounting of each expenditure,** if any, including the full name and complete address of each payee, including secondary payees whenever the primary or principal payee is known to include charges which the primary payee has already paid or will pay directly to another person, vendor or entity, the amount and the purpose of the expenditure, the candidate supported or opposed by the expenditure, whether the expenditure is made independently of the candidate supported or is an in-kind contribution to the candidate, and a statement of the balance on hand or deficit, as the case may be; **(D) an itemized accounting of each expense incurred but not paid,** provided if the expense is incurred by use of a credit card, the accounting shall include secondary payees, and the amount owed to each such payee; ...[Emphasis added.]

14. Conn. Gen. Stat. § 9-706 provides, in relevant part:

> . . . (c) The [grant] application shall be accompanied by a cumulative itemized accounting of all funds received, ***expenditures made and expenses incurred but not yet paid*** by the candidate committee as of three days before the applicable application deadline contained in subsection (g) of this section. Such accounting shall be sworn to under penalty of false statement by the campaign treasurer of the candidate committee. The commission shall prescribe the form of the application and the cumulative itemized accounting. The form for such accounting shall conform to the requirements of section 9-608, as amended by this act. Both the candidate and the campaign treasurer of the candidate committee shall sign the application. [Emphasis added.]

15. Vendors provided written receipts for all the Respondent's authorized purchases, except costs associated with the committee headquarters, described in further detail below. Respondent, however, failed to properly disclose the expenses incurred but not paid during the corresponding reporting period.

16. It is concluded that Respondent Canuel's failure to disclose the expenses incurred but not paid during the corresponding reporting period described in paragraph 11, above, constituted violations of Conn. Gen. Stat. §§ 9-606(a), 9-608(c) and 9-706(c).

17. The Respondent did fully disclose such expenses on the Sierra 2008 committee's *Itemized Campaign Finance Disclosure Statement* (SEEC Form 30) filed with the Commission several weeks later on August 4, 2008. However, failure to properly report committee's expenses can hamper the Commission's ability to monitor spending in a race, or whether supplemental grants should be issued under certain circumstances, and proper reporting takes on increased importance with the Commission's obligations administering the Citizens' Election Program.

18. Conn. Gen. Stat. § 9-607(f) provides, in relevant part:

> The campaign treasurer shall preserve all internal records of transactions required to be entered in reports filed pursuant to section 9-608 for four years from the date of the report in which the transactions were entered. ***Internal records required to be***

maintained in order for any permissible expenditure to be paid from committee funds include, but are not limited to, contemporaneous invoices, receipts, bills, statements, itineraries, or other written or documentary evidence showing the campaign or other lawful purpose of the expenditure. If a committee incurs expenses by credit card, the campaign treasurer shall preserve all credit card statements and receipts for four years from the date of the report in which the transaction was required to be entered. If any checks are issued pursuant to subsection (e) of this section, the campaign treasurer who issues them shall preserve all cancelled checks and bank statements for four years from the date on which they are issued. If debit card payments are made pursuant to subsection (e) of this section, the campaign treasurer who makes said payments shall preserve all debit card slips and bank statements for four years from the date on which the payments are made. In the case of a candidate committee, the campaign treasurer or the candidate, if the candidate so requests, shall preserve all internal records, cancelled checks, debit cards slips and bank statements for four years from the date of the last report required to be filed under subsection (a) of section 9-608. [Emphasis added.]

19. Regulations of Connecticut State Agencies § 9-706-1 provides, in pertinent part:

. . . (b) ***The absence of contemporaneous detailed documentation indicating that an expenditure was made to directly further the participating candidate's nomination for election or election shall mean that the expenditure was not made to directly further the participating candidate's nomination for election or election, and thus was an impermissible expenditure.*** Contemporaneous detailed documentation shall mean documentation which was created ***at the time of the transaction*** demonstrating that the expenditure of the qualified candidate committee was a campaign-related expenditure made to directly further the participating candidate's nomination for election or election to the office specified in the participating candidate's affidavit certifying the candidate's intent to abide by Citizens' Election Program requirements. Contemporaneous detailed documentation shall include but not be limited to the documentation described in section 9-607(f) of the Connecticut General Statutes. [Emphasis added.]

20. At the time that it occupied its headquarters at 643 Maple Avenue, Hartford, on or about August 1, 2008, the Sierra 2008 committee did not have a written lease executed with the owner of the property. The committee had an oral agreement with the owner to pay $400 per month for the property.

21. The failure to have contemporaneous written documentation at the time the committee occupied the property renders the expenditure an impermissible expenditure pursuant to both Conn. Gen. Stat. § 9-607(f) and Regulations of Connecticut State Agencies § 9-706-1.

22. The Commission could order the amount of the rental payments unsupported by a written lease ($800) paid to the Citizens' Election Fund personally by the candidate, pursuant to Conn. Gen. Stat. §§ 9- 703 and 9-7b(a)(3)(F). The Commission declines to do so in this instance because 1) this is the first year of the operation of the Citizens' Election Program and candidates and committees are adjusting to the new laws and regulations; 2) rental payments for headquarters are typically a legitimate expenditure of a candidate committee; 3) there is no question that the committee actually occupied the property at 643 Maple Avenue

in Hartford, Connecticut, as the committee's headquarters and that it paid rent for such occupancy; and 4) the committee subsequently entered into a written lease and had been previously attempting to execute such an agreement with the owner.

23. Respondent Canuel has no prior history of violations with the Commission and has fully cooperated with the investigation and has stated that his failure to report those items was unintentional.

24. The 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. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.

25. 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 as an admission in any subsequent hearing, if the same becomes necessary.

26. 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.

27. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him or the Sierra 2008 committee pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent shall pay a civil penalty in the amount of four hundred dollars ($400.00) by January 13, 2009 and shall henceforth strictly comply with all the requirements of Connecticut General Statutes §§ 9-606(a), 9-607(f), 9-608(c), 9-706 and Regulations of Connecticut State Agencies § 9-706-1.

For the Respondent:

By: _____
David E. Canuel
121 Cumberland Street
Hartford, Connecticut

Dated: January 14, 2009

For the State Elections Enforcement Commission:

By: _____
Joan M. Andrews, Esq.
Director of Legal Affairs & Enforcement
and Authorized Represen tative of the State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: Jan. 20, 2009

Adopted this ~~11th~~ 14th day of ~~February~~ Jan. of 2009 at Hartford, Connecticut.

_____
Stephen F. Cashman
Chairman
By Order of the Commission