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STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of John McNamara, New Britain File No. 2008- 134

AGREEMENT CONTAINING CONSENT ORDER
AND PAYMENT OF A CIVIL PENALTY FOR VIOLATIONS OF CONNECTICUT
GENERAL STATUTES §§ 9-607 (k), 9-621 (a) and 9-622 (10)

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

1. The Complainant, John McNamara, a resident of the City of New Britain, alleges that the Respondent mailed letters out to several hundred individuals that solicited campaign contributions but did not contain the required attribution. The Complainant further alleges that the spouse of a communicator lobbyist, made an impermissible $25.00 contribution to the Bozek for Senate candidate committee.

2. The Complainant also alleges additional violations of election law. However, those allegations concern additional Respondents and, as such, will be addressed in separate documents.

3. The Respondent was the Republican candidate for State Senate for the 6th District, in the November 4, 2008 state election. On August 29, 2008, he registered with the Commission a candidate committee (hereinafter the "Committee") to finance his candidacy for state senator. The Respondent also agreed to participate in the Citizens' Election Program and was approved for a grant from the Citizens' Election Fund on October 15, 2008.

4. The Respondent acknowledges that in September of 2008 he sent out a mailing to several hundred people that contained a one page letter under the title "Thomas A. Bozek" with his contact information. That letter describes who the Respondent is and why he was running for State Senate and states, among other things, the following: "I am a candidate for State Senator for the Sixth District ... To qualify for financing of my campaign, I NEED TO RAISE $15,000 AND HAVE TO RECEIVE CONTRIBUTIONS FROM A MINIMUM OF THREE HUNDRED (300) INDIVIDUALS BY OCT 9. 2008. These contributions can be ANY AMOUNT between $5 and $100. . .. Each contribution must accompany a completed and signed form, *"Qualifying Contribution Certification Forms for Candidates"*, which I am supplying. This form may be copied and provided to other individuals that may also wish to be a contributor. ... Please help before Oct 8, 2008 the deadline to qualify for this campaign financing." The letter did not, however, indicate who paid for and approved of it.

5. In addition, the mailing included a "Qualifying Contribution Certification Form for Candidates Participating in the Citizens' Election Program." Notably, the attached form

asked potential contributors to disclose whether they were a communicator lobbyist, spouse or dependent child of a communicator lobbyist but did not make the contributor certify that they are not a communicator lobbyist, spouse or dependent child of a communicator lobbyist. Furthermore, that form does not contain an attribution.

6. The third piece included in the mailing was a piece of paper that measured approximately 2 ½ inches by 8 ½ inches and states as follows: "Dear Friend, If I do not receive the $ 15,000 of contributions ($5 to $100) per individual by 10-8-2008, I will not qualify for the state campaign financing law and I will withdraw and I will return all contributions by check beginning 10-12-2008. Please try to be as generous as possible. Thank you. Tom Bozek Candidate for State Senator." That piece also did not indicate who paid for and approved of it. Finally, the mailing includes an envelope pre-addressed to Thomas A. Bozek.

7. General Statutes § 9-621 (a), as amended by Public Act 08-2, provides in relevant part as follows:

> No individual shall make or incur any expenditure ... and no candidate ... shall make or incur any expenditure ... for any written, typed or other printed communication ... which promotes the success or defeat of any candidate's campaign for nomination at a primary or election or solicits funds to benefit any ... committee unless such communication bears upon its face (I) the words "paid for by" and the following: (A) In the case of such an individual, the name and address of such individual; (B) in the case of a committee other than a party committee, the name of the committee and its campaign treasurer; or (C) in the case of a party committee, the name of the committee, and (2) the words "approved by" and the following: (A) In the case of an individual making or incurring an expenditure with the cooperation of: at the request or suggestion of, or in consultation with any candidate, candidate committee or candidate's agent, the name of such individual; or (B) in the case of a candidate committee, the name of the candidate.

8. The Respondent acknowledges that the proper statements indicating who paid for and approved of the communication were not on the letter requesting contributions. However, he maintains that this was not a willful and/or knowingly omission but rather a good faith mistake. The Commission has not found any evidence to the contrary.

9. The Commission therefore concludes that the Respondent violated General Statutes § 9-621 (a) for failing to include the proper attribution on the mailing.

10. The Respondent maintains that the mailing at issue cost approximately $100.00 to print and distribute. He has not, however, been able to supply the Commission with any documentation to support his assertion. He further asserts that he paid for that mailing from his own personal funds but did not report that cost to the treasurer of the Committee before October 10, 2008. The Respondent did, however, deliver a receipt for postage from the New Britain Post Office in the amount of $210.00 to the Committee treasurer. The receipt is dated October 2, 2008. The Respondent asserts that he paid for that postage with his own funds and that the postage is associated with the mailing at issue. He was reimbursed for that $210.00 expenditure by the Committee on October 29, 2008. Notably, the remainder of the Respondent's expenditure for the mailing has never been reported by the Committee.

11. General Statutes § 9-607 (k) provides as follows:

> A candidate shall report to his campaign treasurer each campaign expenditure of more than fifty dollars which he has made directly from his own personal funds, except those expenditures for his own telephone calls, travel and meals for which the candidate does not seek reimbursement from his committee, by the close of the reporting period in which the expenditures were made. The candidate shall indicate whether or not he expects reimbursement by the committee. The campaign treasurer shall report all such reimbursed and nonreimbursed expenditures as "campaign expenses paid by the candidate" on the sworn financial statements he is required to file in accordance with section 9-608 and in the same manner as committee expenditures.

12. The Commission therefore concludes that the Respondent violated General Statutes § 9-607 (k) when he failed to report to his campaign treasurer the expenditure he made from his own personal funds for the mailings at issue by October 10, 2008; the close of the reporting period in which the expenditures were made.

13. Notably, the Respondent's grant would have been reduced by the amount of the expenditure had it been properly reported in the October 10, 2008 disclosure statement and not reimbursed to the Respondent. However, the Commission notes that on the Committee's January 12, 2009 filing, a surplus of $1,393.17 was returned to the Citizen's Election Fund.

14. Finally, the Complainant alleges that Thomas Evanko, the spouse of a communicator lobbyist, made an impermissible $25.00 contribution to the Bozek for Senate candidate committee.

15. The Respondent acknowledges that he sent the mailing at issue to Mr. Evanko. As previously noted, that mailing requested a contribution to the Respondent's campaign.

16. General Statutes § 9-610 (g) prohibits, inter alia, contributions from communicator lobbyists and their immediate family members. It provides in relevant part as follows:

> No ... member of the immediate family of a communicator lobbyist ... shall make a contribution or contributions to, or for the benefit of (I) . . . a candidate committee established by a candidate for nomination or election to the office of ... state senator ....

17. General Statutes § 9-601 defines the terms "immediate family" and "communicator lobbyist." It provides as follows in pertinent part:

> As used in this chapter and sections 9-700 to 9-716, inclusive:
>
> (16) "Lobbyist" means a lobbyist, as defined in section 1-91 and "communicator lobbyist" means a communicator lobbyist, as defined in section 1-91. . . .
>
> (24) "Immediate family" means the spouse or a dependent child of an individual. . . .

18. General Statutes § 1-91 provides in relevant part that:

> (k) "Lobbying" means communicating directly or soliciting others to communicate with any official or his staff in the legislative or executive branch of government or in a quasi-public agency, for the purpose of influencing any legislative or administrative action except that the term "lobbying" does not include (1) communications by or on behalf of a party to, or an intervenor in, a contested case, as described in regulations adopted by the commission in accordance with the provisions of chapter 54, before an executive agency or a quasi-public agency, as defined in section 1-79, (2) communications by a representative of a vendor or by an employee of the registered client lobbyist which representative or employee acts as a salesperson and does not otherwise engage in lobbying regarding any administrative action, (3) communications by an attorney made while engaging in the practice of law and regarding any matter other than legislative action as defined in subsection (j) of this section or the proposal, drafting, development, consideration, amendment, adoption or repeal of any rule or regulation, or (4) other communications exempted by regulations adopted by the commission in accordance with the provisions of chapter 54.
>
> (l) "Lobbyist" means a person who in lobbying and in furtherance of lobbying makes or agrees to make expenditures, or receives or agrees to receive compensation, reimbursement, or both, and such compensation, reimbursement or expenditures are two thousand dollars or more in any calendar year or the combined amount thereof is two thousand dollars or more in any such calendar year . . . .
>
> (v) "Communicator lobbyist" means a lobbyist who communicates directly or solicits others to communicate with an official or his staff in the legislative or executive branch of government or in a quasi-public agency for the purpose of influencing legislative or administrative action . . . .

19. General Statutes § 9-601a defines the term "contribution" as, inter alia, "[a]ny . . . payment . . . gift of money or anything of value, when made for the purpose of influencing the . . . election of any person . . . . "

20. The evidence establishes that Mr. Evanko is and was the spouse of Ann Hogan, a registered in-house communicator lobbyist for Yale New Haven Health System, at the time he made the $25.00 contribution.

21. The Commission therefore concludes that Mr. Evanko was prohibited from contributing to the Respondent's candidate committee pursuant to General Statutes § 9-610 (g).

22. General Statutes § 9-622 (10) states that, among others, "[a]ny person who ***solicits*** ... a contribution that is otherwise prohibited by any provision of this chapter" shall be guilty of committing an illegal practice. [Emphasis added.]

23. General Statutes § 9-601 (26) provides in relevant part that "[s]olicit means (A) requesting that a contribution be made . . . ."

24. The Respondent's mailing requested that Mr. Evanko make a contribution to his campaign.

25. The Commission therefore concludes that the Respondent committed an illegal practice pursuant to General Statutes 9-622 (10) by soliciting a contribution prohibited by General Statutes § 9-610 (g).

26. With respect to that violation, the Respondent maintains, however, that he was not aware that Mr. Evanko was the spouse of a communicator lobbyist until after receiving the Complaint and thus, his error was unintentional. This Commission has found no evidence to the contrary.

27. Nevertheless, Mr. Evanko was not permitted to contribute to his campaign and, as such, the Respondent committed an illegal practice pursuant to General Statutes § 9-622 (10) by soliciting that contribution.

28. The Respondent further 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.

29. 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.

30. 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 agreement or Order entered into pursuant to this agreement.

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

ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with General Statutes §§ 9-607 (k) and 9-621 (a) and shall not commit an illegal practice set forth in General Statutes § 9-622 (10).

IT IS FURTHER ORDERED that on or before February 11, 2009, the Respondent shall pay a civil penalty in the amount of six hundred dollars ($600.00) to the Commission.

For the State of Connecticut

BY:

Dated: 2/17/09

Joan Andrews, Esq.
Director of Legal Affairs
and Enforcement and Authorized
Representative of the State Elections
Enforcement Commission
20 Trinity Street, Suite 101
Hartford, CT

Dated: 2-17-9

The Respondent,

Thomas Bozek
32 Ten Acre Road
New Britain, CT 06053

Adopted this 19th day of February, 2009 at Hartford, Connecticut.

Stephen F. Cashman, Chairman
By Order of the Commission