

JUL 16 2010

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
20 Trinity Street, Hartford, Connecticut 06106-1628

ENFORCEMENT
COMMISSION

Affidavit of Complaint

I, Robert Brown, am a resident of 166 Ice House Road, Town of Watertown, State of Connecticut; and my Telephone Number is (860) 945-6368. I hereby allege and assert the following:

On his website, kevinlembo.com, State Comptroller candidate Kevin Lembo claims to have raised sufficient eligible campaign contributions to qualify to submit an application for public funding pursuant to the Connecticut Citizens' Election Program (the "Program"). The issue, however, is whether all of his contributions are eligible contributions.

An article in the Wednesday, July 15, 2010 edition of the Waterbury Republican-American (Exhibit A) indicated that Mr. Lembo's campaign had raised \$24,100 through June 30, 2010, that he had previously raised \$16,240 through an exploratory committee, that those contributions combined totaled \$40,340, leaving Mr. Lembo to raise another \$34,660 to reach the \$75,000 threshold required to qualify for public funding.

As stated, those circumstances could dictate against Mr. Lembo's eligibility for public financing under the Program if: (1) the \$16,240 raised during the purported exploratory committee period was used to qualify for the Program; and (2) said funds were ineligible for such use. In fact, these funds are ineligible due to Mr. Lembo making public declarations of his candidacy for the office of Lieutenant Governor during such purported exploratory period. Pursuant to C.G.S. § 9-608(f), such public declarations required that he terminate his exploratory committee and form a single candidate's committee for Lieutenant Governor.

At least three such public declarations occurred when:

1. In a public press release posted on Mr. Lembo's website on November 24, 2009 announcing the formation of an exploratory committee, it states that "In addition to filing paperwork, Lembo also sent a letter announcing his candidacy to Democratic leaders across the state." (See attached Exhibit B);

2. When introduced as a candidate for Lieutenant Governor by the State Democratic Chairwoman, Nancy DiNardo, at the Jefferson, Jackson, Bailey State Democratic fundraiser ("JJB Fundraiser") on April 12, 2010, Mr. Lembo acknowledged

his recognition as such and did nothing to correct Ms. DiNardo.¹ It should be noted that the JJB Fundraiser dinner was televised on several occasions on the Connecticut Network (CT-N) and to this date is still available for viewing on the Internet at ww.ctn.state.ct.us; and

3. At the same April 12, 2010 JJB Fundraiser he distributed a flyer highlighting comments by Colin McEnroe that “Kevin Lembo (is) the current front-runner in the race for lieutenant governor...” (See attached Exhibit C). To be a “front-runner” in a race, one must be in the race. While the statement is attributed to Mr. McEnroe, Mr. Lembo authorized its use in his campaign literature and should reasonably have known that the effect of doing so would be to impress upon the public viewing it that he was running for Lieutenant Governor. The full article from Mr. McEnroe, from which the quotation was taken, was also included on Mr. Lembo’s website, kevinlembo.com. (See attached Exhibit D).²

As explained in State Elections Enforcement Commission Declaratory Ruling 2009-01, Public Declarations by Candidates in Exploratory Committee, these actions constituted public declarations of Mr. Lembo’s candidacy for Lieutenant Governor requiring the formation of a candidate’s committee for that office.

Subsequently, when Mr. Lembo abandoned his candidacy for Lieutenant Governor in favor of his candidacy for Comptroller, he was required to terminate his Lieutenant Governor candidate committee and form his present committee for Comptroller.

Lastly, since, C.G.S. § 9-616 prohibits one candidate committee from giving its surplus funds to another candidate committee, any funds raised by Mr. Lembo in his exploratory committee, even if legally transferrable to a Lieutenant Governor’s committee that he should have formed, would have been ineligible for transfer to his State Comptroller candidate committee. Therefore, contributions to Mr. Lembo’s exploratory committee

¹ For prior State Election Enforcement Commission guidance as to whether or not circumstances such as those set forth in this paragraph constitute a public declaration see footnote 1 at page 5 of Connecticut State Elections Enforcement Commission’s Declaratory Ruling 2009-01, Public Declaration by Candidates in Exploratory Committee, with particular reference to sections (1) and (4) of such footnote.

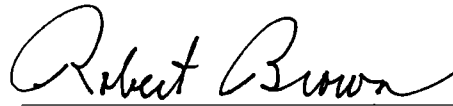
² Reference may be had to State of Connecticut State Elections Enforcement Commission’s Declaratory Ruling 2009-01, Public Declaration by Candidates in Exploratory Committee, at page 4, “Whether an individual has made a ‘declaration’ of intent to seek a particular office is necessarily a fact-specific inquiry. The Commission will consider whether a reasonable person would believe that the words or actions of the candidate, or those acting in coordination with the candidate, constituted a statement of intent to seek public office.” Id at page 6, “For example, a candidate seeking a major party’s endorsement may, while still in an exploratory committee, communicate with the major party’s potential endorsing authorities at a town committee meeting, and explain why the candidate believes she would be the strongest candidate for a particular office, without triggering the requirement to form a candidate committee. Such a communication would be a declaration but would not be public. However, the exact same communication to a broader audience, such as attendees at a town committee fundraiser when the general public was invited, would constitute a public declaration of candidacy and thus trigger the requirement to form a candidate committee.

could not constitute eligible funds to allow for qualification by his State Comptroller candidate committee for Program funding.

As such, it would seem necessary to investigate the eligibility of Mr. Lembo's funding for the Program.

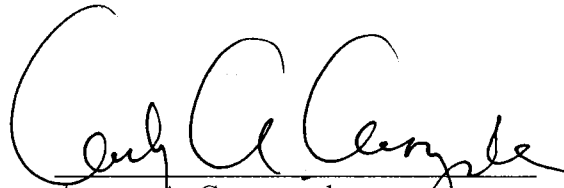
I SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENT IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Dated this 16th day of July, 2010 at Waterbury, Connecticut.



Robert Brown

Personally appeared before me and acknowledged the foregoing to be the truth to the best of his knowledge and belief.



Antony A. Casagrande
Commissioner of the Superior Court