

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

GREEN PARTY OF CONNECTICUT,	:	
ET AL.,	:	CASE NO. 3:06-CV-1030 (SRU)
Plaintiffs,	:	
	:	
v.	:	
	:	
JEFFREY GARFIELD, ET AL.,	:	
	:	
Defendants.	:	
	:	
AUDREY BLONDIN, ET AL.,	:	
	:	
Intervenor-Defendants.	:	
-----		March 9, 2009

**DEFENDANTS’ AND INTERVENOR DEFENDANTS’ PROPOSED FINDINGS OF
FACT AS TO PLAINTIFFS’ AS-APPLIED CHALLENGE**

Defendants Jeffrey Garfield, and Richard Blumenthal; and Intervenor-Defendants Audrey Blondin, Tom Sevigny, Connecticut Common Cause, and Connecticut Citizens Action Group (collectively, “Defendants”), hereby respectfully submit their proposed findings of fact as to Plaintiffs’ as-applied challenge to the Connecticut Citizen’s Election Program (CEP).

Pursuant to the Court’s order, trial in this matter has been bifurcated between Plaintiffs’ facial and as-applied challenges to the CEP. Pursuant to that order, trial proceedings limited to Plaintiffs’ facial challenges were held on December 9-10, 2008. Defendants proffered evidence and proposed factual findings concerning the facial constitutionality of the CEP on December 3, 2008 (Doc. # 310-1).

The instant proposed factual findings are intended to supplement the factual findings Defendants previously submitted, and address Plaintiffs as-applied challenges to the CEP, which are to be tried on March 11-12, 2009.¹

I. Non-major Party Competition and CEP Participation in the 2008 General Election

1. Thirty-nine (39) non-major party candidates ran for office in the 2008 general election: seven in the Senate and 32 in the House. A total of 35 legislative districts were contested by these candidates. In the 2006 general election, 46 non-major party candidates competed in 41 districts in the 2006 general election. Declaration of Zachary Proulx, dated March 4, 2009 (“Proulx Decl. IV”), submitted March 4, 2009, Proulx Decl. IV ¶ 8.

2. Between the 2006 and 2008 general elections, there was no net change in the total number of Green Party (hereinafter “Green Party”) and Libertarian Party of Connecticut (hereinafter “Libertarian Party”) legislative candidates. Five Green Party legislative candidates and one Libertarian Party legislative candidate competed in the 2008 general election. In 2006, four Green Party legislative candidates and two Libertarian Party legislative candidates competed in the general election. Proulx Decl. IV ¶ 9.

3. Five non-major party candidates, or 13 percent, were CEP grant recipients. Thirty-four non-major party candidates, or 87 percent, did not receive grants under the program. Proulx Decl. IV ¶ 10.

4. Under Connecticut Election Law, a candidate may certify that he or she is exempt from forming a candidate committee if he or she intends to raise or spend little or no money over the course of an election cycle. Candidates seeking an exemption from forming a candidate committee must specify the reason that they qualify for exempt status on SEEC Form 1B within

¹ These proposed findings do not include any facts Defendants may present at trial.

ten days after becoming a candidate. *See* Conn. Gen. Stat. § 9-604(a). In 2008, a candidate was exempt from forming a candidate committee if he or she met one of the following conditions:

- a. The candidate is one of a slate of candidates whose campaigns are funded solely by a party committee or a political committee formed for a single election or primary and expenditures made on behalf of the candidate's campaign are reported by the committee sponsoring the candidate's candidacy;
 - b. the candidate finances the candidate's campaign entirely from personal funds and does not solicit or receive contributions, provided if said candidate personally makes an expenditure or expenditures in excess of one thousand dollars to, or for the benefit of, said candidate's campaign for nomination at a primary or election to an office or position, said candidate shall file statements according to the same schedule and in the same manner as is required of a campaign treasurer of a candidate committee under section 9-608;
 - c. the candidate does not receive or expend funds in excess of one thousand dollars;
or
 - d. the candidate does not receive or expend any funds, including personal funds, for the candidate's campaign. Conn. Gen. Stat. § 9-604(b).
5. Pursuant to Connecticut Election law a participating candidate in the CEP must establish a candidate committee. Conn. Gen. Stat. § 9-604(b) (2009).
6. Filing a Form 1B request provides a telling indication of the seriousness with which candidates approach the campaign. The filing of this form indicates that a candidate is indicating from the commencement of her campaign that she does not intend to raise more than \$1000. From a practical standpoint, such candidacies amount to little more than placing the

candidate's names on the ballot. Candidates who file Form 1B are in effect saying that they do not intend to raise the qualifying contributions (\$5000 for House races, \$15,000 for Senate races) necessary to obtain public funding. Declaration of Donald P. Green, dated March 4, 2009 ("Green Decl. III"), submitted March 4, 2009, ¶ 9.

7. In 2008, at least five non-major party Senate candidates and 19 non-major party House candidates filed SEEC Form 1B. In total, therefore, 24 of the 39 non-major legislative party candidates who ran in 2008, or 62 percent, were exempt from forming candidate committees. Of the 15 non-major party candidates who were not exempt from forming candidate committees, five, or 33 percent, received partial or full grants under the CEP. Proulx Decl. IV ¶ 13.

8. In 2006, by contrast, five of the six non-major party Senate candidates and 30 of the 40 non-major party House candidates filed exemptions from forming candidate committees. Therefore, in 2006, 34 of the 46 non-major party legislative candidates, or 74 percent, filed exemptions from forming candidate committees. Proulx Decl. IV ¶ 17.

9. Four of the five Green Party candidates who competed in 2008 (Colin D. Bennett, Zachary A. Chaves, Remy G. Chevalier, and S Michael DeRosa²) and the Libertarian Party's only candidate all filed SEEC Form 1B certifying that they would not raise or expend funds in excess of \$1,000. Proulx Decl. IV ¶ 14.

10. Green Party candidate Kenric Hanson did not file SEEC Form 1B. According to Hanson's February 10, 2009 campaign termination report, however, his campaign committee

² Although Green Party candidate S. Michael DeRosa filed SEEC Form 1B on March 19, 2008 on the basis that he would not raise or expend funds in excess of \$1,000, he later filed SEEC Form 1A on September 19, 2008 in order to form a candidate committee, thus changing his exemption status. However, DeRosa's campaign committee raised and expended only \$150 in the 2008 election cycle as of his January 10, 2009 campaign finance report. The January 10, 2009 filing also reports \$205.52 in total expenses paid by DeRosa, all of which were claimed for reimbursement. Proulx Decl. IV ¶ 15.

raised only \$405 over the entire 2008 election cycle and expended only \$400. The termination filing also reports \$1,259.47 in total expenses paid by Hanson. Proulx Decl. IV ¶ 16.

11. Thus, no Green or Libertarian Party candidate committee raised or expended funds in excess of \$1,000 in 2008. Proulx Decl. IV ¶¶ 14-16.

II. Non-major Party Electoral Success in the 2008 General Election

12. Election returns from 2008 provide no support for the notion that the CEP disadvantaged non-major party candidates in any way in getting their messages out to voters. Donald Green Decl. Declaration of Donald P. Green, dated March 4, 2009 (“Green Decl. III”), submitted March 4, 2009, ¶ 7.

13. In 2008, non-major party candidates averaged 8.5 percent of the vote in 2008, the highest percentage of the vote garnered by non-major party candidates in any election year for which data is readily available (i.e. for 1998 and subsequent elections). Non-major party Senate candidates averaged 8.0 percent of the vote in 2008, while non-major party House candidates averaged 8.6 percent. Proulx Decl. IV ¶ 27.

14. The average percentage of the vote captured by non-major party candidates increased only 1.7 percentage points between 1998 and 2006 – from 4.7 in 1998 to 6.4 in 2006 – before increasing by more than two percentage points in 2008, the first general election under the CEP. The following table presents the average percentage of the vote garnered by non-major party candidates since the 1998 general election:

General Election Year	Average Percentage of the Vote Received by Non-major Party Candidates
2008	8.5%
2006	6.4%
2004	4.7%
2002	6.0%
2000	6.0%
1998	4.7%

The 8.5 percent of the vote achieved by non-major party candidates in 2008 is over 30% higher than the 6.4 percent figure non-major party candidates garnered in 2006 and is an 80% increase from the 4.7 percent figure for 2004. Proulx Decl. IV ¶ 27.

15. The five non-major party candidates who qualified for public funding received an average of 12.8 percent of the vote. Proulx Decl. IV ¶ 28.

16. The group of non-major party candidates who did not qualify for public funding garnered a higher average percentage of the vote in 2008 than all non-major party candidates did in the previous five election cycles. The 34 non-major party candidates who did not receive public funding garnered 7.9 percent of the vote on average. Id.

17. Fourteen (14) non-major party candidates, or 36 percent of all non-major party candidates, received at least 10 percent of the vote in 2008. As a result, many of these candidates, or other members of their party, are automatically eligible³ for partial or full CEP grants in 2010. Proulx Decl. IV ¶ 29.

18. Six of these 14 candidates received between 10 and 15 percent of the vote, four received between 15 and 20 percent, and four received at least 20 percent. Three of the 14 non-major party candidates who achieved at least 10 percent of the vote in 2008 garnered an average of 16.5 percent of the vote. Three of the 14 non-major party candidates who received at least 10 percent of the vote, or 21 percent, were CEP grant recipients. Id.

19. In 2006, 12 of the 46 non-major party candidates, or 26 percent, received at least 10 percent of the vote. Of those 12 candidates, 10 received between 10 and 15 percent of the

³ Such candidates would be required to gather sufficient qualifying contributions and meet other applicable program requirements in order to receive a grant. For simplicity's sake, candidates like these, who are potentially eligible for a grant subject to meeting other program requirements, are referred to throughout these proposed findings as "automatically eligible."

vote and two received at least 20 percent. In 2004, only 9 percent of non-major party candidates received at least 10 percent of the vote. Proulx Decl. IV ¶ 30.

20. In 2008, minor parties cross-endorsed 26 Senate candidates and 55 House candidates, for a total of 81 such endorsements. The Working Families Party made 73 of those endorsements, the Independent Party made seven, and the Connecticut for Lieberman Party made one. These endorsements represent a 37 percent increase from 2006, when minor parties cross-endorsed a total of 59 candidates, and a 326 percent increase from 2004, when minor parties cross-endorsed a total of 19 candidates. Proulx Decl. IV ¶ 31.

21. As a result of the 2008 general election, based on the numbers of votes cast for cross-endorsed candidates on the “minor party line,” 10 minor party candidates are automatically eligible to receive a 1/3 grant in 2010, one minor party candidate is eligible to receive a 2/3 grant, and one minor party candidate is eligible to receive a full grant. As a result of vote totals in the 2006 general election, by contrast, only three minor candidates were automatically eligible to receive a 1/3 grant in 2008 from votes cast for cross-endorsed candidates on minor party lines. Proulx Decl. IV ¶ 32.

22. In 2010, therefore, a total of 21 non-major party candidates will be automatically eligible for partial or full grants under the CEP. If the total number of non-major party legislative candidates remains the same in 2010 as it was in 2008 (39), 54 percent of non-major party candidates will be automatically eligible for CEP grants in 2010. Proulx Decl. IV ¶ 36.

III. Five Non-major Party Candidates Did Qualify for a CEP Grant in the 2008 Election Cycle

23. Five non-major party candidates — three Independent Party candidates and two Working Families Party candidates — qualified for a CEP grant in 2008. Proulx Decl. IV ¶¶ 37-41.

24. Cicero Booker, Jr. in Senate District 15, Deborah Beth Noble in House District 16 and Rocco L. Frank, Jr. in House District 118 became eligible for their CEP grants by petitioning. Proulx Decl. IV ¶¶ 37-41. These examples refute the claim that the petition requirements were set at impossibly high levels. D. Green Decl. III ¶ 11.

A. Cicero Booker Qualified for a Full CEP Grant

25. Working Families Party candidate Cicero B. Booker, Jr. collected enough signatures and raised the requisite \$15,000 in qualifying contributions to qualify for a full grant in Senate District 15. Proulx Decl. IV ¶ 37.

26. After applying for a public grant, Booker was awarded a full CEP grant of \$85,000. Id.

27. In the previous general election (2006), 13,514 votes were cast in Senate District 15. Based on this, Booker needed to submit 2,703 valid signatures in order to be eligible for a full CEP grant. This year, Booker submitted more than 5,300 signatures to the Secretary of State's office. Booker was therefore able to garner petition signatures equal to more than 39 percent of the votes cast in the previous election. Id.

28. Booker, who was cross-endorsed by the Independent Party, competed against Democratic incumbent Senator Joan V. Hartley, who was also a CEP grant recipient. Booker received 19.6 percent of the vote, including 10.6 percent on the Independent Party line and the

balance on the Working Families Party line. As a result of Booker's vote showing in 2008, an Independent Party candidate is automatically eligible to receive a 1/3 grant in 2010. Id.

B. Deborah Noble qualified for a 2/3 CEP Grant

29. Working Families Party candidate Deborah Beth Noble collected enough signatures and raised the requisite \$5,000 in qualifying contributions to qualify for a 2/3 grant in House District 16. After applying for a public grant, Ms. Noble was awarded a 2/3 CEP grant of \$16,667. Proulx Decl. IV ¶ 38.

30. In 2006, 10,934 votes were cast in House District 16, and thus Ms. Noble needed to collect at least 1,641 valid signatures (15 percent of 10,934). Id.

31. Ms. Noble competed against Democratic incumbent Representative Linda Schofield and Republican challenger Robert Heagney, whom also received CEP grants, as well as non-participating petitioning candidate Robert H. Kalechman. Id.

32. Ms. Noble received 2.5 percent of the vote. Id.

C. Arthur Denze Qualified for a full CEP grant

33. Independent Party candidate Arthur J. Denze, Sr. automatically qualified for a full grant in House District 71 based upon the Independent Party's prior election performance in the district. After raising the requisite \$5,000 in qualifying contributions, Denze was awarded a full CEP grant of \$25,000. Proulx Decl. IV ¶ 39.

34. Denze competed against Republican incumbent Representative Anthony J. D'Amelio and Democratic challenger Stephen R. Ferrucci, III, both of whom also received CEP grants. Denze received 12.0 percent of the vote. Thus, an Independent Party candidate is automatically eligible to receive a 1/3 grant in House District 71 in 2010. Id.

D. Frank Burgio Qualified for a 1/3 CEP Grant

35. Independent Party candidate Frank A. Burgio, Sr. garnered enough signatures and raised the requisite \$5,000 in qualifying contributions to qualify for a 1/3 grant in House District 74. After applying for a public grant, Burgio was awarded a 1/3 CEP grant of \$8,333. Proulx Decl. IV ¶ 40.

36. In 2006, 3,913 votes were cast in House District 74, and thus Burgio needed to collect at least 392 valid signatures (10 percent of 3,913). Proulx Decl. IV ¶ 40.

37. Burgio competed against Republican incumbent Selim G. Noujaim, who was also a CEP grant recipient. Burgio received 20.2 percent of the vote. Thus, an Independent Party candidate is automatically eligible to receive a full grant in that district in 2010. *Id.*

E. Rocco J. Frank, Jr. Qualified for a 2/3 CEP Grant

38. Independent Party candidate Rocco J. Frank, Jr. garnered enough signatures and raised the requisite \$5,000 in qualifying contributions to qualify for a 2/3 grant in House District 118. Frank was awarded a 2/3 CEP grant of \$16,667. Proulx Decl. IV ¶ 41.

39. In 2006, 5,613 votes were cast in House District 118, and thus Frank needed to collect at least 842 valid signatures (15 percent of 5,613). Frank competed against Republican Nanci A. Seltzer and Democrat Barbara L. Lambert, both of whom also received CEP grants. Frank received 9.6 percent of the vote. *Id.*

IV. No Green Party or Libertarian Party Candidate Attempted to Qualify for the CEP in 2008

40. The co-chair of the Connecticut Green Party, Stephen Fournier admitted at deposition that the Green Party's best hope of winning a seat is through a gradual party-building process using the CEP. Declaration of Angela Migally, dated March 4, 2009 ("Migally Decl. III"), submitted March 4, 2009, Ex. 3, Green Party, Minutes of State Central Committee

Meeting, January 27, 2009, at ¶ B(1). Fournier admitted that it would be possible for a Green Party candidate to qualify for CEP funding. Migally Decl. III Ex. 2, Fournier Dep. at 96:16-19; *see also id.* at Ex. 1, Hanson Dep. at 90:3-16. (Green Party candidate in House District 39, admitting that it is possible for Green Party candidate to qualify for CEP grant in that district).

41. Despite the opportunity presented by the CEP, no Green Party candidate appears to have made an effort to qualify for a grant of CEP funds in the 2008 election.

42. Similarly, there is no evidence that any Libertarian Party candidate attempted to fulfill the requirements for CEP funding, apparently due to the Libertarian Party's philosophical opposition to public funding of campaigns. Decl. of Andrew Rule, 6/20/08 Doc 232-9 at ¶8. (testimony of Libertarian Party of Connecticut Treasurer that Libertarian Party is opposed to public financing of campaigns under any circumstances, and that the Party believes that elections should be left to the marketplace.)

V. The CEP did not Diminish the Political Strength of the Green or Libertarian Party in the 2008 Election

43. The CEP did not diminish the political strength of the Green or Libertarian Party in the 2008 election by any measure: number of candidates, average vote totals, fundraising or ballot status.

44. The average percentage of the vote received by Green Party candidates in the 2008 general election increased by over two percentage points from 2006. The average percentage of the vote received by Libertarian Party candidates in 2008 decreased from 5.6 in 2006 to 1.6 in 2008. Proulx Decl. IV ¶ 42.

45. The following table presents the average percentage of the vote received by Green and Libertarian Party legislative candidates since 1998, as well as the number of candidates who ran as a member of each party:

General Election Year	Avg. % of the Vote Received by Green Party Legislative Candidates	Number of Green Party Legislative Candidates	Avg. % of the Vote Received by Libertarian Party Legislative Candidates	Number of Libertarian Party Legislative Candidates
2008	7.3%	5	1.6%	1
2006	5.2%	4	5.6%	2
2004	12.1%	6	3.3%	5
2002	8.1%	5	2.3%	2
2000	7.9%	6	5.9%	15
1998	N/A	0	3.1%	7

Proulx Decl. IV ¶ 43.

A. Green Party

46. The Green Party fielded one more candidate in 2008 than it did in 2006: three senatorial candidates, Colin Bennett (Senate District 33, Zachary Chaves (Senate District 36), and DeRosa (Senate District 1) and two House candidates, Hanson (House District 39) and Remy Chevalier (House District 135). Proulx Decl. IV ¶¶ 9, 43.

47. In 2008, four out of five Green Party candidates ran in districts where the Green Party fielded candidates in 2006. All four candidates, DeRosa, Remy Chevalier, Colin Bennett and Zachary Chaves, received more votes than the Green Party candidate who ran in the same districts in 2006. Proulx Decl. IV ¶ 44.

48. In 2008, three out of four Green Party candidates, Remy Chevalier, Colin Bennett and Zachary Chaves, received a greater percentage of the vote total in 2008 than the Green Party candidate in that district received in 2006. Proulx Decl. IV ¶ 44.

49. One Green Party candidate, DeRosa, received a slightly smaller percentage of the vote, 4.61% than the 2006 Green Party candidate who ran in the same district, Robert Pandolfo who received 5.9% of the vote. Proulx Decl. IV ¶ 44.

50. There is no evidence that any of the Green Party candidates would have received a stronger vote percentage in the absence of the CEP. Migally Decl. III Ex. 2, Fournier Dep. at 114:10-115:12; 94:1-6.

51. The CEP did not reduce the Green Party's previous success with achieving ballot access. In 2006, all Green Party candidates for a legislative seat achieved at least 1% of the vote. Foster Decl. ¶ 3. In 2008, all five Green Party candidates received at least 1% of the vote. Proulx Decl. IV ¶ 42; *see also* Migally Decl. III Ex. 2, Fournier Dep. at 120:17-19 (CEP has not impacted Green Party's ability to achieve ballot status).

52. There is no evidence that the CEP created any disadvantage for Green Party candidates in fundraising for their 2008 candidacies. Migally Decl. III Ex. 2, Fournier Dep. at 118:1-3.

53. In the 2008 election, the Green Party did not recruit its candidates for state office, nor did it provide any assistance –including financial assistance) to candidates who came forward to run as Green Party candidates. Migally Decl. III Ex. 2, Fournier Dep. at 64:14-16; 35:7-9; 65:8-14; 35:7-9.

54. Four of the five Green Party candidates appear to have run last-minute campaigns. Colin Bennett (Senate District 33), Zachary Chaves (Senate District 36), and Remy Chevalier (House District 135) filed their Form 1B on September 15, 2008, September 17, 2008 and September 17, 2008, respectively. Hanson filed his candidate registration on August 1, 2008. *See* Colin D. Bennett, SEEC Form 1B: Registration by Candidate (September 15, 2008), <http://seec.ct.gov/eCris/v1.0/PublicAccess/SEEC1-Exemption.pdf>; Zaac A. Chaves, SEEC Form 1B: Registration by Candidate (September 17, 2008), <http://seec.ct.gov/eCris/v1.0/PublicAccess/SEEC1-Exemption.pdf>; Remy Chevalier, SEEC Form

1B: Registration by Candidate (September 17, 2008),

<http://seec.ct.gov/eCris/v1.0/PublicAccess/SEEC1-Exemption.pdf>; Kenric M. Hanson, SEEC

Form 1A: Registration by Candidate (August 1, 2008),

<http://seec.ct.gov/eCris/v1.0/PublicAccess/SEEC1-Candidate.pdf>.

55. A co-chair of the Green Party admitted that he is unsure whether or how the CEP will affect the Green Party, and he believes it would take several election cycles where the CEP is in effect in order to determine what effect it is having on elections. Migally Decl. III Ex. 2, Fournier Dep. at 81:24-82:6; 58:8-13.

i. Hanson's Race in House District 39

56. In 2008, Hanson ran as a Green Party candidate for a House seat in the 39th District against Democratic incumbent Representative Ernest Hewett and Republican challenger Jason Catala. From 2000-2006, no Green Party candidate had previously run for this seat. Both the Republican Party and the Democratic Party have fielded candidates for this seat in every election since 2002. *See* Connecticut Secretary of the State, Vote for State Representatives 2002, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392522> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Representatives 2004, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392548> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Representatives 2006, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392566> (last visited Dec. 22, 2008); Connecticut Secretary of the State, 2008 General Election Results for State Representative, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_representative.pdf (last visited Dec. 22, 2008).

57. Hanson's campaign appears to have been a last-minute effort whose goal was to raise issues and to achieve ballot access for the Green Party in future elections. Migally Decl. III Ex. 1, Hanson Dep. at 51:8-17.

58. Hanson testified that in order to win the House seat in the 39th District he would need a budget of at least \$10,000, he would have to campaign for at least five months, and he would need 30-40 newspaper advertisements, 100 campaign signs, between 500-1000 phone calls to voters, someone to manage the phone calls, a treasurer, a campaign manager and 10-20 volunteers. Migally Decl. III Ex. 1, Hanson Dep. at 27:1-29:12, 38:24-39:5, 46:1-3. However, Hanson's campaign efforts fell far short of these requirements. He spent about \$1,500, he campaigned for about two months, he bought 100 campaign signs, he placed one newspaper advertisement, and he did not have any of the staff assistance he would need (other than a treasurer). Migally Decl. III Ex. 1, Hanson Dep. at 27:1-29:12, 34:21-23, 39:6-39:7. Hanson first discussed his campaign strategy with his treasurer on August 25, more than three weeks after he registered his candidacy for House District 39 on August 1. Migally Decl. III Ex. 1, Hanson Dep. at 31:10-32:21. He had only five volunteers help him gather signatures to achieve ballot access. His campaign held one fundraiser, which raised around \$100. Migally Decl. III Ex. 1, Hanson Dep. at 33:5-11.

59. The Green Party provided no financial support, no staff support, and no strategic consulting to Hanson's campaign. The campaign received a \$200 contribution from the New London Green Party. Migally Decl. III Ex. 1, Hanson Dep. at 42:9-44:5.

60. Neither of Hanson's opponents participated in the CEP. Declaration of Beth Rotman, dated March 4, 2009 ("Rotman Decl. II"), Ex. 3 Table of 2008 General Election Grants.

61. Hanson's campaign committee raised only \$405 during the entire 2008 election cycle and expended only \$400. His campaign committee's termination filing also reports \$1,259.47 in total expenses paid by Hanson himself. Proulx Decl. IV ¶ 16. Ernest Hewett's campaign committee spent a total of \$2,606. Hewett himself spent a total of \$1,018.69. History 2008, SEEC Form 30: Itemized Campaign Finance Disclosure Statement (February 3, 2009), http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC30_090867_1.pdf. Jason Catala spent no more than \$1,000 as of October 21, 2008. *See* Catala For State REP, SEEC Form 21: Short Form Campaign Finance Disclosure Statement (Nov. 14, 2008), http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC21_084963_1.pdf.

62. The Democratic incumbent Representative Ernest Hewett received 73.50% of the vote, the Republican challenger, Jason Catala, received 17.94% of the vote and the Green Party candidate, Hanson, received 8.56%. *See* Connecticut Secretary of the State, 2008 General Election Results for State Representative, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_representative.pdf (last visited Dec. 22, 2008).

63. Catala, the Republican candidate, received twice the number of votes that Hanson received although the combined expenditures made by Hanson's candidate committee and Hanson's personal expenditures exceeded the total expenditures made by Catala. *See* Catala For State REP, SEEC Form 21: Short Form Campaign Finance Disclosure Statement (Nov. 14, 2008), http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC21_084963_1.pdf; Kenhanson39ctrep, SEEC Form 30: Itemized Campaign Finance Disclosure Statement (February 10, 2009),

http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC30_Deficit_or_Termination_Filing_Following_General_Election_3490.PDF.

64. Hanson testified that the CEP did not impact his candidacy. Specifically, he testified that the CEP did not impact his ability to raise funds, get out the vote, get volunteers, purchase advertising, achieve ballot access or communicate with voters. Migally Decl. III Ex. 1, Hanson Dep. at 91:1-92:19.

65. Hanson testified that the availability of CEP money to the Democratic incumbent in 2010 would not have any impact on his decision to run in 2010. Migally Decl. III Ex. 1, Hanson Dep. at 91:1-92:19.

66. Hanson also testified that the availability of CEP grants to the Democratic incumbent in the 2010 election would not affect the New London Green Party's decision to run in 2010. Migally Decl. III Ex. 1, Hanson Dep. at 95:4-18.

67. Hanson petitioned to achieve ballot access. He and five volunteers collected 106 signatures in three days. Migally Decl. III Ex. 1, Hanson Dep. at 64:3-67:2.

68. Based on the vote totals of the prior election in District 39, Hanson would have needed to collect only 372 signatures in order to meet the CEP's petitioning qualification requirement. *See* Connecticut Secretary of the State, Vote for State Representatives 2006, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392566> (last visited Dec. 22, 2008).

69. He estimated that it would take him six weeks to collect these signatures. Migally Decl. III Ex. 1, Hanson Dep. at 87:20-23. During the 2008 election cycle, candidates had from January 2, 2008 to August 6, 2008 – more than 7 months – in order to gather petition signatures.

ii. Colin Bennett's Race in Senate District 33

70. In 2008, Colin Bennett ran as a Green Party candidate for a Senate seat in district 33 against three time Democratic incumbent Eileen Daily and Republican challenger Vincent Pacileo III. Declaration of Beth Rotman, dated March 4, 2009 ("Rotman Decl. II"), Ex. 3 Table of 2008 General Election Grants. The Green Party has fielded candidates in this race in both the 2004 and 2006 election. Both the Republican Party and the Democratic Party have fielded candidates for this seat in every election since 2000. *See* Connecticut Secretary of the State, Vote for State Senators 2000, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392516> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Senators 2002, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392542> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Senators 2004, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392560> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Senators 2006, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392586> (last visited Dec. 22, 2008); Connecticut Secretary of the State, 2008 General Election Results for State Senators, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008).

71. In 2008, both the Democratic and Republican candidates received CEP grants in the amount of \$85,000. Declaration of Beth Rotman, dated March 4, 2009 ("Rotman Decl. II"), Ex. 3 Table of 2008 General Election Grants.

72. Colin Bennett filed a 1B exemption indicating that he intended to neither raise nor spend more than \$1,000. Proulx Decl. IV ¶ 14.

73. Democratic incumbent Senator Eileen Daily received 61.1% of the vote, the Republican challenger Vincent Pacileo III received 35.51% of the vote and the Green Party candidate, Colin Bennett received 3.39% of the vote. *See* Connecticut Secretary of the State, 2008 General Election Results for State Senator, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008).

74. In 2008, Colin Bennett received more than double the number of votes than he did in 2006. In 2008, he received 1,682 votes or 3.39% of the total votes cast in this district. *See* Connecticut Secretary of the State, 2008 General Election Results for State Senator, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008). In 2006 he received 755 votes or 2.03% of the total votes in this district. Connecticut Secretary of the State, Vote for State Senators 2006, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392586> (last visited Dec.22, 2008).

iii. Zachary Chaves' race in Senate District 36

75. In 2008, Zachary Chaves ran as a Green Party candidate for a Senate seat in District 36 against Democrat Mark Diamond and Republican L Scott Frantz. Declaration of Beth Rotman, dated March 4, 2009 (“Rotman Decl. II”), Ex. 3 Table of 2008 General Election Grants. The Green Party has fielded a candidate in this district since 2004. The Republican Party has fielded a candidate in this race since 2000. The Democratic Party has fielded a candidate for this seat since 2006. *See* Connecticut Secretary of the State, Vote for State Senators 2000, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392516> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Senators 2002, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392542> (last visited Dec. 22, 2008);

Connecticut Secretary of the State, Vote for State Senators 2004,

<http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392560> (last visited Dec. 22, 2008);

Connecticut Secretary of the State, Vote for State Senators 2006,

<http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392586> (last visited Dec. 22, 2008);

Connecticut Secretary of the State, 2008 General Election Results for State Senators,

http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008).

76. In 2008, Senate District 36 was an open seat. Declaration of Beth Rotman, dated March 4, 2009 (“Rotman Decl. II”), Ex. 3 Table of 2008 General Election Grants.

77. Neither the Democrat nor Republican participated in the CEP. Declaration of Beth Rotman, dated March 4, 2009 (“Rotman Decl. II”), Ex. 3 Table of 2008 General Election Grants.

78. Zachary Chaves filed a 1B exemption indicating that he intended to neither raise nor spend more than \$1,000. Proulx Decl. IV ¶ 14. Democrat Mark Diamond spent \$11,480.63. Diamond For Senator, SEEC Form 30: Itemized Campaign Finance Disclosure Statement (Feb. 06, 2009),

[http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC30_Deficit_or_Termination_Following_General_Election_3378.PDF](http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC30_Deficit_or_Termination_Filing_Following_General_Election_3378.PDF). Republican L. Scott Frantz spent \$76,758.52. Frantz For State Senate, SEEC Form 30: Itemized Campaign Finance Disclosure Statement (Feb. 04, 2009),

http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC30_Deficit_or_Termination_Filing_Following_General_Election_3323.PDF.

79. Democrat Mark Diamond received 39.63% of the vote, Republican L. Scott Frantz received 58.21% of the vote and the Green Party candidate, Zachary Chaves received 2.16% of the vote. *See* Connecticut Secretary of the State, 2008 General Election Results for State Senators, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008).

80. In 2008, Zachary Chaves received more than double the number of votes than the Green Party candidate, David Bedell, received in 2006. In 2008, Zachary Chaves received 975 votes or 2.16% of the total votes cast in this district. In 2006, David Bedell received 407 votes or 1.25% of the total votes in this district. *See* Connecticut Secretary of the State, Vote for State Senators 2006, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392586> (last visited Dec. 22, 2008); Connecticut Secretary of the State, 2008 General Election Results for State Senators, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008).

iv. Remy Chevalier's race for House District 135

81. In 2008, Remy Chevalier ran as a Green Party candidate for a House seat in district 135 against Republican incumbent Representative John Stripp. The Green Party has fielded a candidate in this district since 2004. The Republican Party has fielded a candidate in this district since 2000. The Democratic Party has not fielded a candidate for this seat since 2000. *See* Connecticut Secretary of the State, Vote for State Representatives 2000, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392502> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Representatives 2002, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392522> (last visited Dec. 22, 2008);

Connecticut Secretary of the State, Vote for State Representatives 2004,

<http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392548> (last visited Dec. 22, 2008);

Connecticut Secretary of the State, Vote for State Representatives 2006,

<http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392566> (last visited Dec. 22, 2008);

Connecticut Secretary of the State, 2008 General Election Results for State Representative,

http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_representative.pdf (last visited Dec. 22, 2008).

82. Republican incumbent John Stripp received a CEP grant in the amount of \$15,000. Declaration of Beth Rotman, dated March 4, 2009 (“Rotman Decl. II”), Ex. 3 Table of 2008 General Election Grants.

83. Remy Chevalier filed a 1B exemption indicating that he did not intend to raise or spend more than \$1,000. Proulx Decl. IV ¶ 14. Republican John Stripp spent \$ 21,559.55. *See* John Stripp 2008, SEEC Form 30: Itemized Campaign Finance Disclosure Statement (December 11, 2008),

[http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC30_Termination_Report_for_Candidate_and_Exploratory_Committees_\(Non_Standard\)_2667.PDF](http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC30_Termination_Report_for_Candidate_and_Exploratory_Committees_(Non_Standard)_2667.PDF).

84. Republican John Stripp received 82.04% of the vote and the Green Party candidate received 17.96% of the vote. *See* Connecticut Secretary of the State, 2008 General Election Results for State Representative,

http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_representative.pdf (last visited Dec. 22, 2008).

85. In 2008, Remy Chevalier received more than double the number of votes than the Green Party candidate, Nancy Burton, received in 2006. In 2008, Remy Chevalier received 1782

votes or 17.96% of the total votes cast in this district. In 2006, Nancy Burton received 758 votes or 11.72% of the total votes in this district. *See* Connecticut Secretary of the State, Vote for State Representatives 2006, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392566> (last visited Dec. 22, 2008); Connecticut Secretary of the State, 2008 General Election Results for State Representative,

http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_representative.pdf (last visited Dec. 22, 2008).

86. As a result of Remy Chevalier's performance, a Green Party candidate in the next election cycle is eligible for a 2/3 CEP grant if that candidate raises the qualifying contributions. *See* Connecticut Secretary of the State, 2008 General Election Results for State Representative, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_representative.pdf (last visited Dec. 22, 2008).

87. Although Remy Chevalier, the Green Party's candidate for House District 135, was eligible for a 1/3 grant based on the Green Party candidate's vote totals in that district in 2006, there is no evidence that Chevalier attempted to qualify for CEP funding. *See* Connecticut Secretary of the State, 2006 General Election Results for State Senator, <http://www.sots.ct.gov/sots/cwp/view.asp?a=3188&q=392566> (last visited December 22, 2008). Chevalier never filed a Form 1A with the SEEC, as would be necessary if he had intended to accept qualifying contributions, and he did not file his candidate registration until September 17, 2008. *See* Remy Chevalier, SEEC Form 1: Registration by Candidate (September 17, 2008), <http://seec.ct.gov/eCris/v1.0/PublicAccess/SEEC1-Exemption.pdf>.

88. According to the testimony of Stephen Fournier, the goal of Chevalier's campaign was to get on the ballot and possibly qualify for public financing in the next election cycle.

Migally Decl. III Ex. 2, Fournier Dep. at 69:11-16. The Green Party knew that Chevalier was not going to win. Migally Decl. III Ex. 2, Fournier Dep. at 82:16-22.

v. DeRosa's race for Senate District 1

89. In 2008, DeRosa ran as a Green Party candidate for a Senate seat in district 1 against incumbent Democrat Senator John Fonfara and Republican challenger Barbara Ruhe. The Green Party has fielded a candidate in this district since 2000. Since 2000, the Republican Party fielded a candidate in this district twice, in 2002 and 2008. The Democratic Party has fielded a candidate for this seat in every election since 2000. *See* Connecticut Secretary of the State, Vote for State Senators 2000, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392516> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Senators 2002, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392542> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Senators 2004, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392560> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Senators 2006, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392586> (last visited Dec. 22, 2008); Connecticut Secretary of the State, 2008 General Election Results for State Senators, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008).

90. Democrat John Fonfara received a general election grant in the amount of \$85,000. Neither Republican challenger Barbara Ruhe or DeRosa received a CEP grant. Declaration of Beth Rotman, dated March 4, 2009 ("Rotman Decl. II"), Ex. 3 Table of 2008 General Election Grants.

91. DeRosa initially filed a 1B exemption indicating that he intended to neither raise nor spend more than \$1,000. He later filed SEEC Form 1A on September 19, 2008 in order to form a candidate committee, thus changing his exemption status. However, DeRosa's campaign committee raised and expended only \$150 in the 2008 election cycle as of his January 10, 2009 campaign finance report. The January 10, 2009 filing also reports \$205.52 in total expenses paid by DeRosa himself, all of which were claimed for reimbursement. Proulx Decl. IV ¶ 15.

92. Republican challenger Barbara Ruhe's campaign committee spent a total of \$8,046.01. Ruhe herself spent a total of \$438.69. Ruhe For Change, SEEC Form 30: Itemized Campaign Finance Disclosure Statement (January 31, 2009), [http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC30_Termination_Report_for_Candidate_and_Exploratory_Committees_\(Non_Standard\)_3324.PDF](http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC30_Termination_Report_for_Candidate_and_Exploratory_Committees_(Non_Standard)_3324.PDF).

93. Democrat incumbent John Fonfara received 78.63% of the vote, Republican challenger Barbara Ruhe received 16.76% of the vote and the Green Party candidate, DeRosa received 4.61% of the vote. *See* Connecticut Secretary of the State, 2008 General Election Results for State Senators, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008).

94. There was no Republican candidate in the District 1 in 1998 and 2000, but there was a Republican in 2002. That year, the republican candidate got 23% of the vote, and DeRosa got 5.8 percent.. Connecticut Secretary of State, 1998 General Election Results for State Senate, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392494> (last visited December 22, 2008); Connecticut Secretary of State, 2000 General Election Results for State Senate, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392516> (last visited December 22, 2008);

Connecticut Secretary of State, 2002 General Election Results for State Senate,
<http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392542> (last visited December 22, 2008).

95. In 2008, DeRosa received more votes than the Green Party candidate, Robert Pandolfo, received in 2006. In 2008, DeRosa received 1,109 votes or 4.61% of the total votes cast in this district. In 2006, Robert Pandolfo received 733 votes or 5.90% of the total votes in this district. *See* Connecticut Secretary of the State, Vote for State Senators 2006, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392586> (last visited Dec. 22, 2008); Connecticut Secretary of the State, 2008 General Election Results for State Senators, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008)

96. According to the testimony of Stephen Fournier, the goal of DeRosa's campaign was not to win, but to engage the Democratic candidate in debate about utility rates. Migally Decl. III Ex. 2, Fournier Dep. at 68:9-69:4.

97. DeRosa filed SEEC Form 10, an "Affidavit of intent to abide by expenditure limits and other Citizens' Election Program Requirements." However, there is no evidence that DeRosa ever made any attempt to qualify for CEP funding. On March 20, 2008, DeRosa initially filed a CEP Form 1B, indicating that he was exempt from forming a candidate committee for his candidacy, because he did not intend to spend in excess of \$1000. *See* S. Michael DeRosa, SEEC Form 1: Registration by Candidate (March 20, 2008), <http://seec.ct.gov/eCris/v1.0/PublicAccess/SEEC1-Exemption.pdf>. On September 18, 2008, DeRosa filed a Form 1A notifying the SEEC he was forming a candidate committee, and a Form 10, indicating his intent to attempt to participate in the CEP. *See* S. Michael DeRosa, SEEC

Form 1: Registration By Candidate (September 18, 2008),

<http://seec.ct.gov/eCris/v1.0/PublicAccess/SEEC1-Candidate.pdf>.

98. In order to be eligible for a 1/3 Senate grant under the CEP in 2008, DeRosa would have had to collect 1,242 valid signatures by August 6, 2008. *See* Connecticut Secretary of the State, 2006 General Election Results for State Senator,

<http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392586> (last visited December 22, 2008);

Conn. Gen. Stat. § 9-704(a) (2009).

99. There is no evidence that DeRosa ever attempted to fulfill any of the requirements to qualify for a CEP grant. S. Michael DeRosa, SEEC Form 1A: Registration By Candidate (September 18, 2008), <http://seec.ct.gov/eCris/v1.0/PublicAccess/SEEC1-Candidate.pdf>.

100. He only filed his intent to participate in the CEP over one month past the petitioning deadline. Additionally, as of October 10, 2008 — the deadline for collecting qualifying contributions — DeRosa had raised only one qualifying contribution, a \$25 contribution from out of district. *See* DeRosa, SEEC Form 30: Itemized Campaign Finance Disclosure Statement (October 10, 2008),

http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC30_October_10_Filing_1346.PDF.

B. Libertarian Party

101. The Libertarian Party fielded only one candidate, Marc L. Guttman (Senate District 20). This continued a recent trend, in which the Libertarian Party has fielded decreasing numbers of candidates. In 2006, the Libertarian Party fielded 60% fewer candidates than it did in 2004. In 2006, it fielded two candidates. In 2004, it fielded five candidates. Proulx Decl. IV ¶ 43.

102. Based on the 2006 election results, the Libertarian Party had ballot access for House Districts 5 and 82 in the 2008 election. Despite this, the Libertarian Party did not run a candidate in either district. Instead, a Libertarian Party candidate petitioned for ballot access in Senate District 20. *See* Connecticut Secretary of State, General Election Results for State House, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392566> (last visited March 4, 2009); Connecticut Secretary of State, General Election Results for State Senate, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited March 4, 2009); Connecticut Secretary of State, General Election Results for Treasurer, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392588>; Connecticut Secretary of State, General Election Results for Secretary of State, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392584> (last visited March 4, 2009); Connecticut Secretary of State, General Election Results for Comptroller, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392570> (March 4, 2009).

103. In 2008, the CEP did not reduce the electoral success previously experienced by the Libertarian Party. From 1998 to 2006, no Libertarian Party candidate won a state legislative seat. Foster Decl. ¶ 5. This trend continued in 2008, when the one Libertarian Party candidate for a legislative seat lost. Proulx Decl. IV ¶ 45.

104. The CEP did not reduce the Libertarian Party's previous success with achieving ballot access. In 2006, all Libertarian Party candidates for a legislative seat achieved at least 1% of the vote. Foster Decl. ¶ 3. In 2008, the one Libertarian candidate received at least 1% of the vote. Proulx Decl. IV ¶ 42.

105. The CEP did not have a demonstrated negative effect on the fundraising of the Libertarian Party of Connecticut. Total monetary receipts reported by the Libertarian Party of

Connecticut increased, almost doubling, from \$4,585.33 in the 2006 election year to \$8,770.00 in the 2008 election year. *See* Libertarian Party of Connecticut, Statement of Receipts and Expenditures (October 31, 2006),

http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/2006_5356.pdf. Libertarian Party of Connecticut, SEEC Form 20: Itemized Campaign Finance Disclosure Statement (October 23, 2008), http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC20_085044_1.pdf.

i. Marc Guttman's Race for Senate District 20

106. In 2008, Marc Guttman ran as a Libertarian Party candidate for a Senate seat in District 20 against incumbent Democratic Senator Andrea Stillman and Republican challenger Thomas Simones. Between 2000 and 2006, the Green Party did not field a candidate in this district. Since 2000, both the Republican and Democratic Party have fielded a candidate in this district in every election. *See* Connecticut Secretary of the State, Vote for State Senators 2000, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392516> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Senators 2002, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392542> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Senators 2004, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392560> (last visited Dec. 22, 2008); Connecticut Secretary of the State, Vote for State Senators 2006, <http://www.ct.gov/sots/cwp/view.asp?a=3188&q=392586> (last visited Dec. 22, 2008); Connecticut Secretary of the State, 2008 General Election Results for State Senators, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008).

107. Democrat Andrea Stillman received a CEP grant in the amount of \$84,900 and Republican Thomas Simones received a grant in the amount of \$85,000. Declaration of Beth Rotman, dated March 4, 2009 (“Rotman Decl. II”), Ex. 3 Table of 2008 General Election Grants.

108. Marc Guttman filed a 1B exemption indicating that he did not intend to raise or spend more than \$1,000. Proulx Decl. IV ¶ 14.

109. Democratic incumbent Andrea Stillman received 67.66% of the vote, Republican challenger Thomas Simones received 30.75% of the vote and the Green Party candidate, Marc Guttman received 1.59% of the vote. *See Connecticut Secretary of the State, 2008 General Election Results for State Senators*, http://www.sots.ct.gov/sots/lib/sots/electionservices/electionresults/2008_election_results/2008_state_senator.pdf (last visited Dec. 22, 2008)

VI. Prospects for CEP qualification in 2010

110. In 2010, a total of 12 Working Families Party legislative candidates will be automatically eligible for partial or full CEP grants as a result of both direct votes for Working Families Party candidates and minor party line votes for other candidates cross-endorsed by the Working Families Party. The Working Families Party received more than 20 percent of the vote in Senate District 34 and House District 142; between 15 and 20 percent of the vote in House District 30; and between 10 and 15 percent of the vote in Senate Districts 3 and 31, and House Districts 6, 27, 45, 64, 72, 115, and 116. Proulx Decl. IV ¶ 33.

111. In 2010, a total of seven Independent Party legislative candidates will be automatically eligible for partial or full CEP grants as a result of both direct votes for Independent Party candidates and minor party line votes for other candidates cross-endorsed by the Independent Party. The Independent Party received more than 20 percent of the vote in

Senate District 16 and House Districts 73 and 74, and between 10 and 15 percent of the vote in Senate District 15 and House District 70, 71, and 72. Proulx Decl. IV ¶ 34.

112. In 2010, one legislative candidate from the Green Party and one legislative candidate from the Connecticut for Lieberman Party will also be automatically eligible for a 2/3 CEP grant based on vote totals in the 2008 general election. Green Party candidate Remy G. Chevalier received 17.96 percent of the vote in House District 135, and a Connecticut for Lieberman Party candidate Pete J. Votto received 15.48 percent of the vote in House District 90. Proulx Decl. IV ¶ 35.

113. In 2010, therefore, a total of 21 non-major party candidates will be automatically eligible for partial or full grants under the CEP. If the total number of non-major party legislative candidates remains the same in 2010 as it was in 2008 (39), a full 54 percent of non-major party candidates will be automatically eligible for CEP grants in 2010. Proulx Decl. IV ¶ 36.

VII. The Green Party and the Libertarian Party are not in actual or imminent danger of raising contributions or making expenditures in excess of the matching funds threshold

A. In the 2008 Election Cycle, Green Party Candidates and Libertarian Candidates Did Not Raise Contributions or Make Expenditures in Excess of the Matching Funds Threshold

114. There is no evidence that any Green or Libertarian Party candidate has ever raised contributions or expenditures in excess of the matching funds threshold, nor that any Green or Libertarian Party candidate has the capability of raising or expending such funds.

115. In 2008, no Green Party or Libertarian Party candidate committee raised or spent more than \$1,000. Proulx Decl. IV ¶ 16.

116. From 2002-2008, no Connecticut Green Party candidate committee for a non-gubernatorial statewide office has received contributions or made expenditures in excess of \$2,784.00. Supplemental Declaration of Zachary Proulx, dated November 19, 2008 (“Proulx Decl. III”) ¶ 10; Proulx Decl. IV ¶ 9.

117. From 2002-2008, no Connecticut Green Party candidate committee for Governor has received contributions or made expenditures in excess of \$31,239.25. Proulx Decl. III ¶ 10; Proulx Decl. IV ¶ 9.

118. From 2002-2008, no Connecticut Green Party candidate committee for Senate has received contributions or made expenditures in excess of \$4,998. Proulx Decl. III ¶ 10; Proulx Decl. IV ¶ 16.

119. From 2002-2008, no Connecticut Green Party candidate committee for House has received contributions or made expenditures in excess of \$10,759.88. Proulx Decl. III ¶ 10; Proulx Decl. IV ¶ 16.

120. From 2002-2008, no Connecticut Libertarian Party candidate committee for a non-gubernatorial statewide office has received contributions or made expenditures in excess of \$1,000. Proulx Decl. III ¶ 9; Proulx Decl. IV ¶ 9.

121. From 2002-2008, no Connecticut Libertarian Party candidate committee for Senate has received contributions or made expenditures in excess of \$1,000. Proulx Decl. III ¶ 9; Proulx Decl. IV ¶ 16.

122. From 2002-2008, no Connecticut Libertarian Party candidate committee for House has received contributions or made expenditures in excess of \$1,000. Proulx Decl. III ¶ 9; Proulx Decl. IV ¶ 16.

123. Plaintiff DeRosa has never raised more than \$5,500 in campaign contributions. *See* Deposition of Michael DeRosa, dated February 1, 2008, (“DeRosa Dep.”)(attached as Exhibit 1 to the A. Migally Decl. Sept. 5, 2008)(Doc. 260-9)) at 76:13-23. Proulx Decl. IV ¶ 15.

B. The Green Party Does not have any plans nor do they have the ability to make independent expenditures in the next election cycle

124. There is no evidence that Plaintiffs have ever made an independent expenditure promoting the defeat of a candidate in an election for state office. Proulx Decl. III ¶12.

125. The Green Party currently has no plans to make independent expenditures in the next election because they have no money with which to do so. Migally Decl. III Ex. 2, Fournier Dep. at 130:15-22.

126. The Green Party raised \$2,524 in 2008. *See* SEEC Form 20, Green Party January 10, 2009 filing

http://uat.seec.ct.gov/ecrisreporting/Data/Unassigned/SEEC20_January_10_Filing_2553.PDF.

VIII. Major Party Competition and CEP Participation in the 2008 General Election

127. Sixty-three (63) major party Senate candidates ran for office in the 2008 general election. Fifty (50) of those candidates, or 79 percent, received grants under the CEP (“CEP grant recipients”). Thirteen (13) candidates, or 21 percent, did not receive public grants under the program. Proulx Decl. IV ¶ 5.

128. Two hundred forty (240) major party House candidates ran for office in the 2008 general election. One hundred eighty-one (181) of those candidates, or 75 percent, were CEP grant recipients. Fifty-nine (59) candidates, or 25 percent, did not receive public grants under the program. Proulx Decl. IV ¶ 6.

129. In total, therefore, 231 major party candidates, or 76 percent, received public grants under the CEP. In 2006, 304 major party Senate and House candidates ran for office in the general election. Proulx Decl. IV ¶ 7.

IX. Major Party Electoral Success in the 2008 General Election

130. Out of the 303 major party candidates who competed in the 2008 general election, three Senate candidates and 11 House candidates, or 4.6 percent of the total number of general election major party candidates, received less than 20 percent of the vote in the 2008 general election. They averaged 13.7 percent of the vote, with Senate candidates averaging 12.2 percent and House candidates averaging 14.1 percent. Only one of those candidates was a CEP grant recipient, while three others signed SEEC Form CEP 10 but either did not apply for or did not qualify for a public grant. In comparison 12 major party candidates received less than 20 percent of the vote in 2006. Proulx Decl. IV ¶ 26.

X. There was no increase in the “Contestedness” of races in the 2008 General Election

131. Across all legislative races in the 2008 election, the net number of newly contested districts decreased by one. A comparison between the 2006 and 2008 general elections, reveals that the absolute number of contested Senate Districts remained the same, while the absolute number of contested House districts *decreased* by one. Proulx Decl. IV ¶ 19-24.

132. In both the 2006 and 2008 general elections, 27 of the 36 Senate Districts were contested and nine were uncontested. Proulx Decl. IV ¶ 24.

133. Of the 27 contested Senate Districts in the 2008 general election, five were newly contested. The newly contested races occurred in Senate Districts 1, 6, 24, 28, and 32. Proulx Decl. IV ¶ 19.

134. Of the nine uncontested Senate Districts in the 2008 general election, five were newly uncontested. The newly uncontested races occurred in Senate Districts 3, 16, 19, 27, and 31. Proulx Decl. IV ¶ 20.

135. In 2006, 90 House districts were contested, while 61 were uncontested. In 2008, 89 House districts were contested and 62 were uncontested. Proulx Decl. IV ¶ 23.

136. Of the 89 contested House districts in the 2008 general election, there were 28 newly contested races in House Districts 15, 17, 20, 22, 23, 27, 43, 52, 57, 60, 62, 66, 71, 76, 78, 84, 85, 88, 105, 106, 107, 111, 112, 118, 122, 129, 143, and 145. Proulx Decl. IV ¶ 21.

137. Of the 62 uncontested House districts in the 2008 general election, there were 29 newly uncontested races in House Districts 7, 10, 11, 12, 21, 30, 35, 38, 55, 56, 63, 64, 70, 72, 80, 86, 90, 97, 102, 104, 115, 116, 121, 139, 140, 142, 144, 147, and 148. Proulx Decl. IV ¶ 21.

138. In 2008, 303 major party candidates ran for Senate and House seats. In 2006, 304 major party Senate and House candidates ran for office in the general election. Proulx Decl. IV ¶ 26.

139. The availability of public financing did not affect the number of districts in which there were contests between two major party candidates. Major party candidates are motivated primarily by the prospect of winning office. In districts where the chances of winning office are remote even for a major party challenger who qualifies for a CEP grant, major party candidates tend not to step forward. D. Green Decl. II ¶¶ 4-5.

140. Stephen Fournier testified that he was unsure that the CEP would cause major party candidates to enter races they otherwise would not enter and he testified that he does not have any data demonstrating that this will occur. Migally Decl. III Ex. 2, Fournier Dep. at 81:18-21; 81:22-23.

141. In fact, as part of a report that he drafted for the ACLU, Fournier stated that it is reasonable to assume that many Democrat or Republican candidates will face no opponent in 2010, which presents more of an opportunity for Green Party candidates to receive enough votes to qualify for funding under the CEP in 2012. Migally Decl. III. Ex. 3, Green Party, Minutes of State Central Committee Meeting, January 27, 2009 at 1.

142. For all legislative races in 2008 in which non-major party candidates competed, the net number of newly contested districts increased by only one. Out of the 18 legislative districts in which a non-major party candidate ran against two major party candidates, in the 2008 general election, eight were newly contested. Of the 17 districts in which a non-major party candidate competed against only one major party candidate, seven were newly uncontested. Proulx Decl. IV ¶25.

XI. The CEP Did Not Result in Increased Campaign Expenditures Relative to Historic Norms

143. Fifty (50) major party Senate candidates received CEP grants in the 2008 general election. They received an average grant of approximately \$78,296, factoring in grant deductions due to use of personal funds. One non-major party Senate candidate – Working Families Party candidate Cicero B. Booker, Jr. (Senate District 15) – also received a CEP grant. Booker received a full CEP grant in the amount of \$85,000. Proulx Decl. IV ¶ 47.

144. One hundred eighty-one major party House candidates received CEP grants in the 2008 general election. They received an average grant of approximately \$22,806, factoring in grant deductions due to use of personal funds. Four non-major party House candidates also received CEP grants. They received an average grant of \$22,068. Proulx Decl. IV ¶ 48.

145. The vast majority of Senate and House CEP grant recipients ended their campaign with surplus funds which they then returned to the CEF. Out of the 51 Senate candidates who

received grants in the 2008 general election, 48 candidates, or 94 percent, returned some amount of surplus funds. The average amount returned was approximately \$6,833. Senate candidates who competed in the 2008 general election returned a combined total of approximately \$327,969 to the CEP. Proulx Decl. IV ¶ 49.

146. Similarly, 185 House candidates received CEP grants in the 2008 general election. One hundred sixty-five of those 185 candidates, or 89 percent, returned surplus funds. The average amount returned was approximately \$3,945. House candidates who competed in the 2008 general election returned a combined total of approximately \$650,854 to the CEP. Proulx Decl. IV ¶ 50.

147. Comparing the 2008 election cycle to the preceding election cycle, non-major party candidates saw expenditure increases that were disproportionately higher than their major party candidate counterparts. Average expenditures by major party Senate candidates in non-major party districts increased from \$83,119 in 2006 to \$87,570 in 2008 – a five percent increase. For non-major party Senate candidates, on the other hand, average expenditures increased from \$658 in 2006 to \$14,225 in 2008 – a 2,062 percent increase. Among those non-major party Senate candidates who did not receive CEP grants, average expenditures increased to \$692 in 2008 – a five percent increase. Proulx Decl. IV ¶ 53.

148. Similarly, average expenditures by major party House candidates in non-major party districts increased from \$14,080 in 2006 to \$20,855 in 2008 – a 48 percent increase. Average expenditures for non-major party House candidates, on the other hand, increased from \$713 in 2006 to \$3,736 in 2008 – a 424 percent increase. Even among those non-major party House candidates who did not receive CEP grants, average expenditures increased to \$1,073 in 2008 – a 50 percent increase. Proulx Decl. IV ¶ 54.

XII. Organizational Expenditures Decrease Dramatically in 2008

149. The total amount of organizational expenditures or their equivalent in legislative races dropped from \$1,479,984 in 2006 to \$464,486 in 2008– a difference of \$1,015,498 and a 69 percent decrease. Declaration of Jeffery Garfield, dated March 4, 2009, ¶ 26.

150. For the 2006 election cycle, the designated political and party committees provided approximately \$776,532 in the aggregate of comparable organization expenditures to state senate candidates. For the 2008 election cycle, by contrast, organization expenditures made on behalf of state senate candidates totaled approximately \$253,405 – a 68 percent decrease. Id.

151. Similarly, the designated committees provided approximately \$703,452 of comparable organization expenditures to state house candidates for the 2006 election cycle. For the 2008 election cycle, however, organization expenditures made on behalf of state house candidates totaled approximately \$211,081 – a 70 percent decrease. Id.

152. For the 2006 election cycle, state senate candidates who received comparable organization expenditures from the designated committees received approximately \$15,531 on average. State house candidates who received comparable organization expenditures from the designated committees received about \$3,782 on average. Declaration of Jeffery Garfield, dated March 4, 2009, ¶ 27.

153. By contrast, for the 2008 election cycle, those state senate candidates (both participating and nonparticipating) who actually received organization expenditures received approximately \$6,849, while those state house candidates (both participating and nonparticipating) who actually received organized expenditures received approximately \$1,649 on average. Id.

154. There is no evidence to show that candidates who participated in the CEP in the 2008 general election reaped windfalls from organization expenditures. Indeed, the amount of organization expenditures received by *all* participating state senate candidates was approximately \$4,090 on average (this average amount includes participating state senate candidates who did not receive any organization expenditures). Declaration of Jeffery Garfield, dated March 4, 2009, ¶ 28.

155. The subset of participating senate candidates who *actually received* some amount of organization expenditures received an average of \$6,816 in organizational expenditures, which is less than the average among all organization expenditure beneficiaries. Declaration of Jeffery Garfield, dated March 4, 2009, ¶ 28.

156. The amount of organization expenditures received by *all* participating state house candidates was approximately \$1,063 on average. When we look at the smaller subset of participating house candidates who *actually received* some amount of organization expenditures, the average was roughly \$1,787. Declaration of Jeffery Garfield, dated March 4, 2009, ¶ 28.

157. For the 2008 calendar year the Independent Party Waterbury Town Committee spent a total of \$32,969.44, including \$12,074.33 spent between October 22 and the end of 2008. In 2007, the Independent Party Waterbury Town Committee spent a total of \$33,195.44, having received in 2007 nearly \$36,000 for the town committee. Declaration of Jeffery Garfield, dated March 4, 2009, ¶ 30.

158. In calendar year 2008, Working Families Campaign Committee, a party committee established by the Working Families Party, spent \$61,691.61, according to an SEEC Form 20 filed by that committee with the SEEC on January 12, 2009. Of that 2008 aggregate

total, \$18,557.77 was spent between October 22 and the end of the year. Declaration of Jeffery Garfield, dated March 4, 2009, ¶ 32.

XIII. Petitioning Requirements and Administrative Burden

159. Major party candidates are not required to satisfy the petitioning requirement for a CEP grant, even if the party did not field a candidate in the previous election or fielded a candidate who achieved less than 20 percent of the vote. Defendants refer to these candidates as “new major party challengers.” Conn. Gen. Stat. §9-702; Proulx Decl. VI ¶ 56.

160. In 2008, 42 “new major party challengers” competed in the 2008 general election – eight in Senate races and 34 in House races. Ten were “new major party challenger” because a candidate from their party received less than 20 percent of the vote in the previous election, while 32 were in that category because their party did not field a candidate in the previous election. Proulx Decl. VI ¶ 58.

161. If each new major party challenger in 2008 had been required to submit signatures equal in number to 20 percent of the total votes cast in the previous election, new major party challengers in total would have had to submit at least 62,500 valid signatures to Registrars of Voters or town clerks. Proulx VI ¶ 57.

162. Twenty-nine of the 42 new major party challengers received public grants under the CEP. Even if only those 29 candidates were required to submit signatures equal in number to 20 percent of the total votes cast in the previous election, Registrars of Voters would still have to verify the validity of at least 49,757 signatures. Proulx Decl. VI ¶ 58.

163. By contrast, the four non-major party candidates who petitioned for and received partial or full grants under the CEP in 2008 had to submit a combined total of only 5,578 valid signatures. Cicero B. Booker, Jr. was required to submit at least 2,703 valid signatures to qualify

for a full CEP grant, Deborah Beth Noble was required to submit at least 1,641 valid signatures for a 2/3 grant, Frank A. Burgio, Sr. was required to submit at least 392 valid signatures for a 1/3 grant, and Rocco J. Frank, Jr. was required to submit at least 842 valid signatures for a 2/3 grant. Proulx Decl. VI ¶ 59.

164. Any utility in requiring “new major party candidates” candidates to petition in order to be eligible for a CEP grant is greatly outweighed by the administrative burdens it would impose on municipal election officials. Bramante Decl. ¶ 4.

165. Signature verification duties in most municipalities fall to the registrars of voters as designated by the town clerks. Bramante Decl. ¶ 3.

166. The resources available to registrars of voters are increasingly limited under the distressed municipal budgets on which they rely. The Registrar of Voters Office in Hartford lost two assistant registrars and a full-time civil servant position to budget cuts in 2008. When fully staffed, the office will have 1 less employee in 2009 than it did in 2008. It is predictable that given deteriorating budget conditions, additional positions will be lost in the near future, and the office may be unable to hire temporary staff to assist during particularly busy times as it has done in past years. Bramante Decl. ¶ 5.

167. In 2008, a staff of three full time workers and two temporary workers at the Hartford Registrar’s office spent hundreds of hours verifying 3,694 signatures. Bramante Decl. ¶ 7.

168. Verification of signatures is an extremely time-consuming and burdensome activity even when the signatures and addresses are legible. Signatures that are difficult to read require much more time and effort to verify. Connecticut law requires that every page of submitted signatures be verified, even when the number of signatures exceeds the requisite

amount. Furthermore, the offices of the registrar do their utmost to verify every signature in order to give candidates the best chance of achieving ballot access (or qualifying for public funding) and to assure electors that their signatures count. These two facts add to the time invested in verifying signatures. Bramante Decl. ¶ 9.

169. The amount of time devoted to signature verification is further extended by the interaction of that function with the processing of voter registration cards. New voter registration cards that arrive are given priority in order to insure that any new voters who have signed petition will be deemed qualified electors at the time the office of the registrar staff verifies the petitions signatures. Bramante Decl. ¶ 10.

170. Without additional resources, which realistically are unlikely to be forthcoming, the offices of the registrar would be overwhelmed if required to take on the additional task of verifying petitions submitted by already ballot-qualified major party candidates for purposes of public campaign financing, at least not without significantly increasing the risk of error or compromising the other important duties the offices must perform in connection with registering voters, maintaining voter rolls and administering elections. Bramante Decl. ¶ 11.

171. If a non-major party candidate is not eligible to receive a CEP grant based on votes-based eligibility, he or she may petition for signatures in order to receive a CEP grant. Conn. Gen. Stat. §9-705(c)(3). The following tables present the minimum, maximum, and mean numbers of signatures required to petition for a CEP grant in 2010 at each of the three threshold levels:

2010 Senate Petition Signature Requirements

	Votes Cast in 2008	10%	15%	20%
Lowest Turnout	23,521 (District 23)	2,353	3,529	4,705
Highest Turnout	54,273 (District 26)	5,428	8,141	10,855
Average Turnout	39,580	3,958	5,937	7,916

2010 House Petition Signature Requirements

	Votes Cast in 2008	10%	15%	20%
Lowest Turnout	3,264 (District 4)	327	490	653
Highest Turnout	13,830 (District 111)	1,383	2,075	2,766
Average Turnout	9,181	919	1,378	1,837

Proulx Decl. VI ¶ 55.

Respectfully submitted,

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CERTIFICATION

I hereby certify that on March 9, 2009, a copy of the foregoing corrected Proposed Findings of Fact was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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