

**STATE OF ILLINOIS
COUNTY OF COOK**

**BEFORE THE STATE BOARD OF ELECTIONS
STATE OF ILLINOIS**

Illinois State Board of Elections
Complainant

Vs.

11 MA 037

Karen Selman for Barrington Hills Village Trustee 23547
Respondent

REPORT OF HEARING EXAMINER

Appeal of Civil Penalty Assessment for Delinquently Filing
The D-1, Statement of Organization and
A Schedule A-1 for the 1st Quarter of 2011

The D-1 Statement of Organization was received by the Board on 3/17/11, 12 days late, resulting in a civil penalty assessment of \$600. The Committee has also been assessed a \$2,500 civil penalty for delinquently filing a Schedule A-1 on 3/17/11, 17 days late. The total assessment is \$3,100.

The Respondent was represented by attorney John Fogarty at the August 31 appeal hearing.

John Fogarty indicated that the committee Karen Selman for Barrington Hills Village Trustee was created on 3/17/11 in an effort to remedy a disclosure violation alleged against Save5Acres for Barrington Hills Trustees, which was created to support the candidacies of Patty Meroni, Karen Selman, and Joe Messer for Barrington Hills Trustee. Mr. Fogarty also indicated that the alleged violation was fully litigated before the Board in 11 CD 006. Each of the candidates in a response to the alleged violation filed a D-1, Statement of Organization, which created 3 separate candidate committees, one for each candidate. Each of the candidate committees also filed a Schedule A-1 to disclose the receipt of a \$5,000 contribution from Benjamin LeCompte III. The candidates did this in an abundance of caution and in an effort to comply with the Campaign Finance Law. Each of the candidates endorsed the \$5,000 check over to their political committee Save5Acres for Barrington Hills Trustees. All three of the candidate committees only had one receipt and one transfer and they were both in relation to this \$5,000 check. The candidate committees had no other receipt and or expenditures. Mr. Fogarty and these 3 candidates believe that the filing of the Statement of Organizations for these candidate political committees was not necessary and an attempt to withdraw these filings was made in a letter of correspondence filed with the State Board of Elections dated 3/23/11 (Exhibit B attached to the appeal affidavit). The candidate committees subsequently filed a Final Report. Mr. Fogarty also indicated that these contributions are subject to rescission in that Save5Acres for Barrington Hills Trustees was found to be in violation of 5/9-8.5 (contribution limits) and 5/9-25 (contribution in the name of another) of the Election Code in relation to the three \$5,000 contributions that Benjamin LeCompte III gave to Patty Meroni, Karen Selman and Joe Messer. All three \$5,000 contributions were ultimately returned to Mr. LeCompte by Save5Acres for Barrington Hills Trustees out of caution that the contributions were possibly not disclosed correctly.

The Committee, Karen Selman for Barrington Hills Village Trustee, voluntarily filed the Statement of Organization on 3/17/11 even if it was in an abundance of caution and in an attempt to remedy a disclosure violation of another political committee. The Board in the past has viewed the voluntary filing of the Statement of Organization as establishing an obligation to file all required reports regardless of whether the "committee" qualified as a political committee. In order to be consistent with previous Board

decisions in relation to the voluntary filing of a Statement of Organization, I recommend the appeal be denied for a lack of an adequate defense in relation to the Statement of Organization being filed 12 days late. If this recommendation is accepted by the Board the civil penalty for the delinquent filing of the Statement of Organization would be \$600. In relation to the \$5,000 contribution from Benjamin LeCompte III I also recommend the appeal be denied for a lack of an adequate defense. The Committee has an obligation to file all required reports. Karen Selman for Barrington Hills Village Trustee received a contribution of more than \$1,000 and they did not timely file a Schedule A-1. Save5Acres for Barrington Hills Trustees is a separate committee and I do not believe res judicata would apply to two different committees even if they share a similar candidate. In addition, since there is no indication that this violation was anything other than inadvertent and unintentional, I also recommend that the penalty be reduced to 10% of the original assessment, or \$250. If these recommendations are accepted by the Board, a \$850 civil penalty will be due and owing. However, since the Committee has filed a Final Report, I further recommend that should the Committee remain dissolved for a period of 2 years following the date of the Final Order imposing the penalty, the fine be abated.



Andy Nauman - Hearing Officer

September 9, 2011

STATE OF ILLINOIS
COUNTY OF COOK

BEFORE THE STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

Illinois State Board of Elections

Complainant

Vs.

ILMA 038

Patty Meroni for Barrington Hills Village Trustee 23548

Respondent

REPORT OF HEARING EXAMINER

Appeal of Civil Penalty Assessment for Delinquently Filing
The D-1, Statement of Organization and
A Schedule A-1 for the 1st Quarter of 2011

The D-1 Statement of Organization was received by the Board on 3/17/11, 12 days late, resulting in a civil penalty assessment of \$600. The Committee has also been assessed a \$2,500 civil penalty for delinquently filing a Schedule A-1 on 3/17/11, 17 days late. The total assessment is \$3,100.

The Respondent was represented by attorney John Fogarty, Jr. at the August 31 appeal hearing. Also in attendance was Patty Meroni.

John Fogarty indicated that the committee Patty Meroni for Barrington Hills Village Trustee was created on 3/17/11 in an effort to remedy a disclosure violation alleged against Save5Acres for Barrington Hills Trustees, which was created to support the candidacies of Patty Meroni, Karen Selman, and Joe Messer for Barrington Hills Trustee. Mr. Fogarty also indicated that the alleged violation was fully litigated before the Board in 11 CD 006. Each of the candidates in a response to the alleged violation filed a D-1, Statement of Organization, which created 3 separate candidate committees, one for each candidate. Each of the candidate committees also filed a Schedule A-1 to disclose the receipt of a \$5,000 contribution from Benjamin LeCompte III. The candidates did this in an abundance of caution and in an effort to comply with the Campaign Finance Law. Each of the candidates endorsed the \$5,000 check over to their political committee Save5Acres for Barrington Hills Trustees. All three of the candidate committees only had one receipt and one transfer and they were both in relation to this \$5,000 check. The candidate committees had no other receipt and or expenditures. Mr. Fogarty and these 3 candidates believe that the filing of the Statement of Organizations for these candidate political committees was not necessary and an attempt to withdraw these filings was made in a letter of correspondence filed with the State Board of Elections dated 3/23/11 (Exhibit B attached to the appeal affidavit). The candidate committees subsequently filed a Final Report. Mr. Fogarty indicated that these contributions are subject to res judicata in that Save5Acres for Barrington Hills Trustees was found to be in violation of 5/9-8.5 (contribution limits) and 5/9-25 (contribution in the name of another) of the Election Code in relation to the three \$5,000 contributions that Benjamin LeCompte III gave to Patty Meroni, Karen Selman and Joe Messer. All three \$5,000 contributions were ultimately returned to Mr. LeCompte by Save5Acres for Barrington Hills Trustees out of caution that the contributions were possibly not disclosed correctly.

The Committee, Patty Meroni for Barrington Hills Village Trustee, voluntarily filed the Statement of Organization on 3/17/11 even if it was in an abundance of caution and in an attempt to remedy a disclosure violation of another political committee. The Board in the past has viewed the voluntary filing of the Statement of Organization as establishing an obligation to file all required reports regardless of

whether the "committee" qualified as a political committee. In order to be consistent with previous Board decisions in relation to the voluntary filing of a Statement of Organization, I recommend the appeal be denied for a lack of an adequate defense in relation to the Statement of Organization being filed 12 days late. If this recommendation is accepted by the Board the civil penalty for the delinquent filing of the Statement of Organization would be \$600. In relation to the \$3,000 contribution from Benjamin LeCompte III I also recommend the appeal be denied for a lack of an adequate defense. The Committee has an obligation to file all required reports. Patty Meroni for Barrington Hills Village Trustee received a contribution of more than \$1,000 and they did not timely file a Schedule A-1. Save5Aeres for Barrington Hills Trustees is a separate committee and I do not believe res judicata would apply to two different committees even if they share a similar candidate. In addition, since there is no indication that this violation was anything other than inadvertent and unintentional, I also recommend that the penalty be reduced to 10% of the original assessment, or \$250. If these recommendations are accepted by the Board, a \$850 civil penalty will be due and owing. However, since the Committee has filed a Final Report, I further recommend that should the Committee remain dissolved for a period of 2 years following the date of the Final Order imposing the penalty, the fine be abated.



Andy Nauman - Hearing Officer

September 9, 2011

STATE OF ILLINOIS
COUNTY OF COOK

BEFORE THE STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

Illinois State Board of Elections
Complainant

Vs.

11 MA 036

Save5Acres for Barrington Hills Trustees 23119
Respondent

REPORT OF HEARING EXAMINER

Appeal of Civil Penalty Assessment for Delinquently Filing
A Schedule A-1 in the 1st and 2nd Quarter of 2011

This committee received a \$1,000 contribution on 3/10/11, and a \$7,500 contribution on 4/2/11, and reported them on a Schedule A-1 received by the Board on 3/15/11 (1 day late), and 4/14/11 (7 days late) respectfully, resulting in a civil penalty assessment of \$4,250.

The Respondent was represented by attorney John Fogarty Jr. at the August 31 appeal hearing. Also in attendance was Patti Meroni a candidate of the Committee.

Patti Meroni testified that Casey Justice was the campaign manger of the Committee. One of Casey's responsibilities was to file the Committee's reports. The Michael Harrington contribution was received and deposited on Thursday, March 10. Casey was supposed to file a Schedule A-1 for this contribution on the next day, but did not show up for work. Casey was ultimately let go for not being the most responsible and reliable person for the job and the termination ended rather poorly. The candidates and the treasurer of the political committee were not aware of the Harrington contribution being deposited or that a Schedule A-1 was required to be filed for this contribution. The deposit was not discovered until March 15 and the Schedule A-1 was filed that day. Mr. Fogarty indicated that the Committee had filed several Schedule A-1 reports and the Committee had no intent to not abide by the campaign finance laws or to hide this contribution. The Committee unfortunately filed the report one day late and they are of the belief that there was little prejudice to any candidate or the general public for filing the report one day late. The contribution was reported a full 3 weeks prior to the election. The Committee asks for leniency.


The date listed on the check for the Benjamin LeCompte III \$7,500 contribution was 4/2/11. The deposit slip shows a deposit date of 4/12/11 (which was attached to the appeal affidavit). Mr. Fogarty stated that the Committee accidentally listed the receipt date as 4/2/11 when they should have used the deposit date of 4/12/11. Mr. Fogarty indicated that the Committee was going to amend the Quarterly Report to reflect the receipt date of 4/12/11.

Section 5/9-10 (d) (i) of the Campaign Disclosure Act states that *a contribution is considered received on the date a monetary contribution was deposited in a bank, financial institution, or other repository of funds for the committee.* Therefore, when the \$1,000 Michael Harrington contribution was deposited on 3/10/11 the political committee had 2 business days to file the contribution. The Committee reported the receipt of the contribution on a Schedule A-1 on 3/15/11 resulting in the contribution being reported 1 day late. It is ultimately the Committee's responsibility to ensure reports are filed in a timely manner and it was not, therefore I recommend

the appeal be denied for a lack of an adequate defense. In addition, since there is no indication that these violations were anything other than inadvertent and unintentional, I also recommend that the penalty be reduced to 10% of the original assessment, or \$50.

The deposit date listed on the deposit slip indicates that the \$7,500 contribution from Benjamin LeCompte III should have been reported as received on 4/12/11 rather than 4/2/11 (4/2/11 also happens to be the date the check was written). Therefore, I recommend the appeal be granted in regards to the Benjamin LeCompte III \$7,500 contribution. Furthermore, I recommend the Committee amend the 2nd Quarterly Report of 2011 to reflect the actual receipt date of this contribution within 30 days of the Board's Final Order. Failure to comply with the said Order could subject the Committee to a penalty not to exceed \$5,000.

If these recommendations are accepted by the Board, the \$50 civil penalty will be stayed as a first violation. (As of 6/30/11, this Committee reported a funds available balance of \$3,164.79.)


Andy Nauman – Hearing Officer
September 6, 2011