

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Arthur R. Thompson, Deep River

File No. 2007-380

FINDINGS AND CONCLUSIONS

Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b and alleges that the Respondent, Claudia Epright, violated General Statutes § 9-621 when she distributed literature that did not contain an attribution but advocated a position on an upcoming referendum question in the Town of Deep River. The Complainant asserts that any expenditure associated with that literature was coordinated with either Citizens for Deep River Central or the Deep River Independent Party because of Ms. Epright's alleged affiliation with both groups. The Complainant also alleges that the Respondent and the other individuals involved in creating and distributing the literature violated the law by failing to register a political committee.

After an investigation of the complaint, the following Findings and Conclusions are made:

1. On October 21, 2007, Claudia Epright distributed no more than 20 copies of a flyer at the Deep River transfer station. That flyer did not contain Ms. Epright's name but did urge electors of Deep River to "Vote 'No'" on a referendum question that was set for vote on October 23, 2007. No attribution appeared at the bottom of the flyer that indicated who paid for it.
2. While at the transfer station Ms. Epright was also handing out literature that promoted the success of the two Deep River Independent Party candidates who were running for municipal office. Ms. Epright is not a member of any association called Citizens for Deep River Center.
3. Respondent Susan Huybensz is the wife of one of those candidates and a neighbor of Ms. Epright. She acknowledges that she independently created no more than 20 flyers on her home computer with paper she purchased because she felt strongly about the upcoming referendum question and wanted to make a statement about it, albeit an anonymous statement. Neither Ms. Epright, the Deep River Independent Party, nor Citizens for Deep River Center were involved in creating the flyer.
4. Ms. Huybensz was aware that Ms. Epright would be at the transfer station on October 21, 2007. She approached Ms. Epright with a handful of flyers and asked her if she would distribute them. Ms. Epright agreed to distribute the flyers at the transfer station for Ms. Huybensz. She did not distribute them at any other location. Ms. Epright had no knowledge of these flyers prior being approached by Ms. Huybensz and was not distributing them on behalf of the Deep River Independent Party or Citizens for Deep River Center.

5. General Statutes § 9-602 (a) provides that:

“Except with respect to an individual acting on his own, . . . no expenditures may be made, directly or indirectly, in aid or in opposition to . . . any . . . referendum question, unless (1) . . . the chairman of the committee has filed a designation of a campaign treasurer and depository institution . . . or (2) . . . in the event of a referendum question, a group of individuals has filed a certification in accordance with the provisions of section 9-604 or 9-605, as the case may be. In the case of a political committee, the filing of the statement of organization by the chairman of such committee, in accordance with the provisions of section 9-605 shall constitute compliance with the provisions of this subsection.” [Emphasis added.]

6. General Statutes § 9-605(d) provides:

(d) A group of two or more individuals who have joined solely to promote the success or defeat of a referendum question shall not be required to file as a political committee, make such designations in accordance with subsections (a) and (b) of this section or file statements pursuant to section 9-608, if the group does not receive or expend in excess of one thousand dollars for the entire campaign and the agent of such individuals files a certification with the proper authority or authorities as required under section 9-603 before an expenditure is made. The certification shall include the name of the group, or the names of the persons who comprise the group, and the name and address of the agent which shall appear on any communication paid for or sponsored by the group as required by section 9-621. If the group receives or expends in excess of one thousand dollars, the agent shall complete the statement of organization and file as a political committee not later than three business days thereafter. The agent shall provide the designated campaign treasurer with all information required for completion of the statements for filing as required by section 9-608. The filing of a certification under this subsection shall not relieve the group from compliance with the provisions of this chapter, and the group shall be considered a political committee established solely for a referendum question for purposes of the limitations on contributions and expenditures.

7. In the present case, Ms. Epright and Ms. Huybensz did not jointly make an expenditure to promote the defeat of the pending referendum question. Ms. Epright merely volunteered to help distribute the anonymous political statement that Ms. Huybensz independently paid for and composed. Accordingly, they were not required to file as a political committee or exempt group pursuant to either General Statutes § 9-602 or § 9-605(d).
8. General Statutes § 9-621 (c) provides the following in pertinent part:

“No . . . committee, or group of two or more individuals who have joined solely to promote the success or defeat of a referendum question and is required to file a certification in accordance with subsection (d) of section 9-605, shall make or incur any expenditure for any written, typed or other

printed communication which promotes the success or defeat of any referendum question unless such communication bears upon its face the words "paid for by" and the following: . . . (2) in the case of a political committee, the name of the committee and the name of its campaign treasurer; (3) in the case of such a group of two or more individuals, the name of the group as it appears on the certification filed in accordance with subsection (d) of section 9-605, and the name and address of its agent.

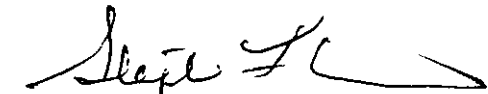
9. The above statute was amended by P.A. 95-276 to comply with the Supreme Court decision in McIntyre v. Ohio Elections Commission, 541 U.S. 334 (1995), by removing an individual acting alone to influence a referendum from the requirements of the statute.
10. Since Ms. Huybensz acted alone and independently made the expenditure for the flyer, she was not required to include an attribution on the flyer, pursuant to General Statutes § 9-621.
11. The Commission concludes that no violation of General Statutes §§ 9-621, 9-602, or 9-605 occurred in connection with the production and distribution of that anonymous flyer.

ORDER

The following Order is issued on the basis of the aforementioned findings:

The complaint is hereby dismissed.

Adopted this 19th day of December, 2007 at Hartford, Connecticut.



Stephen F. Cashman, Chairman
By Order of the Commission