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ENFORCEMENT
COMMISSION

File No. 2008-066

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Heather Cappabianca, Madison

**AGREEMENT CONTAINING CONSENT ORDER AND
PAYMENT OF A CIVIL PENALTY FOR VIOLATION OF
CONNECTICUT GENERAL STATUTES § 9-621(c)**

This Agreement, by and between V. Robert Roxbrough, of the Town of Madison, County of New Haven, State of Connecticut and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Complaint filed the instant Complaint dated May 19, 2008 alleging that the Madison Property Owners Association ("MPOA") took receipts and made expenditures to influence the referendum held in the town of Madison in May 2008, but did not properly file any statement of organization or exemption or any finance reports. Additionally, Complainant alleges that the MPOA took out an advertisement in the May 15, 2008 edition of The Source, a local newspaper, which did not contain the attributions required by Connecticut General Statutes § 9-621(c).
2. The Respondent in this matter is V. Robert Roxbrough, president of an association of individuals from the town of Madison known as the Madison Property Owners Association ("MPOA").
3. According to the MPOA Mission Statement, the MPOA was formed as a citizen group in the town of Madison in or about 1928 "to further the welfare of Madison, Connecticut and its citizens by concerning itself with Town problems, on a selective basis; exploring and presenting the facts on selected public issues to help develop a consensus among citizens; and recommending measures to improve community well-being."
4. In its present incarnation, and at all times relevant to the instant matter, the MPOA is run by a Board of Directors, as well as a voting membership, according to a set of written bylaws. Those who seek to be involved with and/or support the group can become members by paying annual dues on a sliding membership level scale from \$20 to \$1000. Among other things, MPOA bylaws, membership applications, and brochures listing the current members are available on the MPOA's public website.
5. The Town of Madison held a referendum on or about May 20, 2008 concerning the town budget.
6. The Respondent, on behalf of the MPOA, made an expenditure of \$302 out of MPOA treasury funds on or about May 2, 2008 to purchase the advertisement alleged in the

instant Complaint, which advertisement advocated the defeat of the subject referendum.

7. On or about May 13, 2008, the Respondent, on behalf of the MPOA, also ordered signs opposing the referendum.
8. On behalf of the MPOA, the Respondent spent a total of \$425.34 out of MPOA's treasury funds in opposition to the referendum.
9. Connecticut General Statutes § 9-602, provides in pertinent part:

(a) Except with respect to an individual acting on his own, *no contributions may be made, solicited or received and no expenditures may be made, directly or indirectly, in aid of or in opposition to the candidacy for nomination or election of any individual or any party or referendum question, unless* (1) the candidate or chairman of the committee has filed a designation of a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds *or* (2) the candidate or, *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.]

10. General Statutes § 9-605, provides in pertinent part:

(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. [Emphasis added.]

11. However, General Statutes § 9-620, provides in pertinent part:

(d) Any such person other than an individual or a committee which makes expenditures or has expenses incurred but not paid in excess of one thousand dollars in the state or political subdivision thereof in which a referendum question is to be voted upon, shall file all designations and sworn financial statements required to be filed by political committees and comply with all provisions of this chapter which apply to political committees. [Emphasis added.]

12. However, General Statutes § 9-601(10), provides:

(10) **“Person” means** an individual, committee, firm, partnership, organization, **association**, syndicate, company trust, corporation, limited liability company or any other legal entity of any kind but does not mean the state or any political or administrative subdivision of the state. [Emphasis added.]

13. Respondent’s group claims to be a nonprofit membership association who spent the aforementioned funds to influence the outcome of a pending referendum out only of its own treasury and therefore would not require, per General Statutes § 620(d), to file those designations required of individuals or committees.

14. The Commission finds that Respondent’s group was an association and therefore a “person” based on the following findings of fact in this matter:

- a. The MPOA is composed members, some of whom are vested with the power and authority to operate and/or administer the MPOA, pursuant to its bylaws;
- b. The MPOA expressly stated the qualifications and requirements for membership in its bylaws;
- c. The MPOA makes its bylaws available to its members on a public website;
- d. The MPOA expressly solicits individuals to become members and not merely to donate to the association;
- e. The MPOA expressly acknowledges the acceptance of membership by including the member's name on its brochure as well as by making said brochure available on its website.
- f. The MPOA is an entity which was organized primarily for purposes other than for influencing the nomination for election, or election, of any individual for elective office in the State of Connecticut.

15. The Commission finds that the MPOA was not required to file any designations or financial statements related to the expenditures that are the subject of this Complaint because: a) it was an existing association at all times pertinent to this matter who, without raising additional funds for the purpose of influencing the instant referendum, made expenditures *only* out of its existing treasury; and b) did not either make expenditures or have expenses incurred but not paid in excess of one thousand dollars.

16. General Statutes § 9-621, provides in pertinent part:

(c) *No* business entity, organization, **association**, 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: (1) In the case of a business entity, organization or association, the name of the entity, organization or association and the name of its chief executive officer; (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 a party committee, the name of the committee; or (4) 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.*** [Emphasis added.]

17. The advertisement in question was purchased and published during the period in which the referendum was "pending." It is approximately 6" x 6" and is entitled "An Open Letter to Madison Taxpayers." Its content explicitly advocates the defeat of the May 20 budget referendum. It is signed at its bottom "Sincerely,/Madison Property Owners Association/Bob Roxbrough, President/Paid Advertisement."

18. While the source of the message conveyed within the advertisement is evident from the above attribution – which includes both the name of the association and its chief executive officer – the source of the sponsorship of the advertisement is not explicitly identified, because the attribution does not contain the required "paid for by" language preceding the name of the association and its chief executive officer.

19. The Respondent violated General Statutes § 9-621(c) by making an expenditure on behalf of the MPOA for an advertisement promoting the defeat of a referendum question, which included on its face the name of the chief executive officer of the MPOA but failed to include on its face the words "paid for by," and the name of the MPOA in addition thereto.

20. The Respondent admits all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and Order entered after a

full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.

21. It is understood and agreed that this Agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.

22. The Respondent waives:

- (a) Any further procedural steps;
- (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
- (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this Agreement.

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

ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with the requirements of Connecticut General Statutes § 9-621.

The Respondent:

V. Robert Roxbrough
V. Robert Roxbrough
91 Woodsvale Rd
Madison, CT 06443-1749

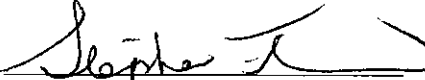
For the State of Connecticut:

BY: Joan Andrews
Joan M. Andrews, Esq.
Director of Legal Affairs & Enforcement
& Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT

Dated: 10/28/2008

Dated: 11/3/08

Adopted this 19th day of November of 2008 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission