

OCT 30 2008

File No. 2008-070

In the Matter of a Complaint by  
Matthew J. Grimes, Brookfield

**AGREEMENT CONTAINING CONSENT ORDER FOR A  
VIOLATION OF CONNECTICUT GENERAL STATUTES §9-369b**

This agreement by and between Robert G. Silvaggi (hereinafter referred to as "Respondent"), of the Town of Brookfield, County of Fairfield, 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. Respondent is the First Selectman for the Town of Brookfield.
2. The Town of Brookfield held a referendum on the fiscal year 2008-2009 Town Budget on June 3, 2008, that passed by 462 votes.
3. The complainant alleges that municipal funds were expended to influence the referendum, in violation of Connecticut General Statutes §9-369b, based on an advocacy letter posted on the Town of Brookfield website, [www.brookfield.org](http://www.brookfield.org), for four days (May 30 to June 2, 2008) while the referendum was pending.
4. The letter contained language that promoted the passing of the impending budget referendum. In the letter, Respondent used phrases such as "*passing this budget is essential to the well being of Brookfield,*" "*It is my sincere hope that this referendum passes*" and "*... we urge the registered voters of Brookfield to turn out and vote on Tuesday, June 3rd, to pass the current referendum in the best interest of town.*"
5. Connecticut General Statutes §9-369b provides in pertinent part:
  - (a) . . . [N]o expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question .
6. The Commission has consistently concluded that communications that recommend or urge support of, or opposition to, a referendum question, are subject to the restrictions found in §9-369b, General Statutes. In its determination of whether a publicly funded communication advocates the approval or disapproval of a referendum, the Commission has considered the communication as a whole, its content, style, tenor and timing. It is found that the letter that is the subject of the instant complaint advocated a "Yes" vote and for passage of the pending referendum.
7. Respondent acknowledged the authorization of the aforementioned on the town's website. He claimed that a staffer asked him whether the letter should be posted onto the Town of

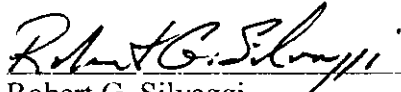
Brookfield website and he said yes, without really considering what the letter was all about or why it should not be posted.

8. However, once the referendum was approved for submission to the voters, the communication urging support for the budget should not have been posted onto the Town of Brookfield's website. The fact that it was posted after the referendum was pending constitutes a violation of Connecticut General Statutes §9-369b.
9. On or about June 2, 2008, Complainant called the Commission requesting that the Town of Brookfield be directed to remove the letter immediately. The Commission checked the website, confirmed the advocacy material, and contacted the First Selectman's office. The letter was removed promptly thereafter, and the complaint received two days later.
10. The Commission has taken into consideration the limited distribution of the message and the minimal expenditure to post it on the website in its resolution of this matter.
11. The Respondent maintains that he understands how the error occurred in this instance, and how to ensure compliance with Connecticut General Statutes §9-369b in the future.
12. 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.
13. 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.
14. 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.
15. 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 §9-369b, and shall further ensure that no expenditure of municipal funds utilizing the Town of Brookfield website shall be made to influence any person to vote for approval or disapproval of a referendum question.

**For the Respondent:  
Commission:**

  
Robert G. Silvaggi  
35 ½ Old Bridge Road  
Brookfield, CT 06804-1212


**For the State Elections Enforcement**

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

Dated: 10/27/08

Date: 11/3/08

Adopted this 19<sup>th</sup> day of November of 2008, at Hartford, Connecticut.

  
Stephen F. Cashman, Chairman  
By Order of the Commission