

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Timothy Lenox, Meriden

File No. 2008-127

FINDINGS AND CONCLUSIONS

The Complainant filed the instant complaint with the Commission pursuant to General Statutes §9-7b, and asserts that Thomas Gaffey of the 13th District of Connecticut lists a domain name on his lawn signs that, when accessed, automatically redirects viewers to <http://www.senatedems.ct.gov/Gaffey.html>-Senator Gaffey's government webpage. The Complainant maintains that "in doing this Senator Gaffey is using state taxpayer funding to promote his campaign" and that "this practice constitutes an involuntary donation to his campaign from the taxpaying residents of Connecticut in the form of an Organization Expenditure" which "violates the entire purpose of the laws of public financing and the spirit of the State Elections Enforcement Commission." Senator Gaffey participated in the Citizens' Election Program.

After an investigation of the matter, the Commission makes the following findings and conclusions:

1. The lawn signs in question were paid for by Senator Gaffey's campaign committee. Those signs state "RE-ELECT TOM GAFFEY YOUR STATE SENATOR -- DEMOCRAT- www.TomGaffey.com."
2. For a time, when accessed, www.TomGaffey.com did direct users to Senator Gaffey's legislative webpage. That was not always the case. Senator Gaffey did have another webpage associated with www.TomGaffey.com. When that website was under construction, however, users who attempted to access www.TomGaffey.com were directed to the Senator's Gaffey's legislative webpage.
3. The Complainant maintains that "in doing this Senator Gaffey [was] using state taxpayer funding to promote his campaign" and that "this practice constitutes an involuntary donation to his campaign from the taxpaying residents of Connecticut in the form of an Organization Expenditure" which "violates the entire purpose of the laws of public financing and the spirit of the State Elections Enforcement Commission."
4. Contrary to the Complainant's assertion, the expenditure for the signs in question did not qualify as an "organization expenditure" because, among other things, those signs were paid for by Senator's Gaffey's candidate committee. See General Statutes § 9-601(25)(defining "organization expenditure" as an expenditure made by a party committee, legislative caucus committee, or legislative leadership committee.)
5. Furthermore, the expenditure for those signs does not constitute a violation of General Statutes § 9-610 (d) (1) as that provision only prohibited Senator Gaffey from using

public funds to mail or print flyers or other promotional materials intended to bring about his reelection during the three months preceding the election in which he was a candidate. Here, public funds were not used to purchase the lawn signs in question.

6. The Complainant does, however, raise the issue of whether an expenditure for lawn signs that contain a domain name that links users to Senator Gaffey's legislative webpage is permissible.
7. Counsel for Senator Gaffey's candidate committee maintains that a lawn sign may display an internet address which links a person to the state legislative website, as that website is a public record. He further asserts that "[t]here can be no legitimate prohibition against referring the public to an official government website – whether through a lawn sign, a brochure, even a television advertisement."
8. In *SEEC Complaint by Jeffrey Merrow*, Bristol, File No. 2000-268, the Commission found that an expenditure for a candidate's website was lawful where the clear and primary purpose of a candidate's website was to promote the candidate, and mere references on that website to the candidate's business and business website did not render that expenditure unlawful as those references were speech that was clearly designed to provide the reader with more information about the candidate.
9. In addition, in October of 2000, Commission staff provided informal advice to Jennifer Butler of the State Republican Offices that campaign literature promoting the candidacy of an incumbent legislator and paid for entirely by the candidate's campaign funds may refer to that legislator/candidate's legislative website, e-mail address, and/or toll free phone number as all such information is purely directory and was being paid for entirely by political funds raised by that candidate's reelection committee.
10. General Statutes § 9-601b provides in relevant part as follows:

As used in this chapter and sections 9-700 to 9-716, inclusive, the term "expenditure" means:(1) Any purchase, payment, . . . distribution, loan, advance, deposit or gift of money or anything of value, when made for the purpose of influencing the . . . election of any person or . . . on behalf of any political party.

11. General Statutes § 9-607 (g) further provides in pertinent part that:

- (1) As used in this subsection, (A) "the lawful purposes of his committee" means:
 - (i) For a candidate committee or exploratory committee, the promoting of the nomination or election of the candidate who established the committee
- (2) Unless otherwise provided by this chapter, any campaign treasurer, in accomplishing the lawful purposes of his committee, may pay the expenses of:
 - (A) Advertising in electronic and print media;
 - (B) any other form of printed advertising . . .
 - (D) political banners and billboards
 - (Z) any other necessary campaign or political expense.

12. The Regulations of Connecticut State Agencies § 9-706-2 also provides in relevant part as follows in with respect to the expenditures of candidate's participating in the Citizen's Election Program:

(a) In addition to the requirements set out in Section 9-706-1 of the Regulations of Connecticut State Agencies, participating candidates and the treasurers of participating candidates shall comply with the following Citizens' Election Program requirements. Permissible campaign-related expenditures shall include but are not limited to expenditures for the following:

1. Purchase of political campaign advertising services from any communications medium, including but not limited to newspaper, television, radio, billboard or internet;

2. Political campaign advertising expenses, including but not limited to printing, photography, or graphic arts related to flyers, brochures, palm cards, stationery, signs, stickers, shirts, hats, buttons, or other similar campaign communication materials

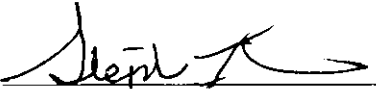
13. In light of the aforementioned provisions, we conclude that the expenditure for the lawn signs in question clearly falls within the lawful purposes of Senator Gaffey's candidate committee as those signs clearly promote Senator Gaffey's reelection. It is therefore permissible. As a consequence, General Statutes § 9-607 has not been violated.

ORDER

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

That the matter be dismissed.

Adopted this 17th day of December 2008 at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission