

**STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by  
David B. Gilmore, Waterbury

File No. 2006-149

**FINDINGS AND CONCLUSIONS**

Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that 1) NSQ LLC reimbursed individuals for campaign contributions for the "Rowland Rell re-election efforts 2003;" and 2) that he was coerced by his employer to give to these efforts in violation of CSBG Hatch Act funding considerations via state and federal funding."

1. Complainant was formerly employed by New Opportunities Inc., a non profit agency, and subsequent to the filing of his complaint, clarified that his complaint concerning the Hatch Act was directed against the President of the New Opportunities, Inc., James Gatling, Ph.D.
2. The Commission does not have jurisdiction to enforce the federal Hatch Act. Complaints concerning the federal Hatch Act, 5 U.S.C. § 1501 *et seq.*, are filed with, investigated and prosecuted by the United States Office of Special Counsel (OSC), and determined by the Merit Systems Protection Board (MSPB) if charges are brought by the OSC.
3. The Complainant filed a Hatch Act complaint concerning the same or similar subject matter with the OSC, which investigated, but could not substantiate the complaint. Accordingly, the complainant's federal Hatch Act complaint was dismissed.
4. The Commission similarly lacks jurisdiction to investigate the state Hatch Act, codified in Conn. Gen. Stat. § 5-266a *et seq.*
5. Conn. Gen. Stat. § 5-266a provides:

**(a) *No person employed in the classified state service or in the Judicial Department*** may (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; or (2) directly or indirectly coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.

6. Conn. Gen. Stat. § 5-266d provides:

If, upon the complaint of any citizen of the state, ***the Commissioner of Administrative Services*** finds that any employee in the classified service has violated any provision of sections 5-266a to 5-266d, inclusive, said commissioner may dismiss such employee from state service. If said commissioner finds that the violation does not warrant removal, he may impose a penalty on such employee of suspension from his position without pay for not less than thirty days or more than

six months. Any employee aggrieved by any action of the commissioner under the provisions of this section may appeal as provided in section 5-202.

7. The State Hatch Act is part of the State Personnel Act, and is enforced as a personnel matter by the Commission of the Department of Administrative Services. Furthermore, there is no indication that the complainant was a state employee at any time relevant to the complaint, or that a State Hatch Act complaint was ever filed with the Department of Administrative Services.
8. Accordingly, for the reasons stated in paragraphs 2 and 4, above, the Complainant's allegations regarding potential Hatch Act violations are dismissed.
9. With respect to Complainant's allegations concerning reimbursed campaign contributions, NSQ LLC is a limited liability corporation formed by a group of friends and business associates from the North Square area of Waterbury, Connecticut.
10. Members of NSQ LLC included the complainant, Jim Gatling, Ph.d, Michael Ferguson, James Griffin, Dennis King, Bill Dixon, John Ferguson, Antoine Gary, David Smith, Donald Taylor, Ben Rhodes and Marlin Durwin.
11. Respondent further clarified his allegations to specifically allege that he was reimbursed by NSQ LLC for a \$500 contribution that he made to attend a fundraiser for John Rowland's re-election campaign at Jim Smith's house in Middlebury, Connecticut on June 11, 2002.
12. Conn. Gen. Stat. § 9-333o (Rev. to 2001) provides, in pertinent part:
  - (a) No business entity shall make any contributions or expenditures to, or for the benefit of, any candidate's campaign for election to any public office or position subject to this chapter or for nomination at a primary for any such office or position, or to promote the defeat of any candidate for any such office or position, or to promote the success or defeat of any political party, except as provided in subsection (b) of this section.
13. Conn. Gen. Stat. § 9- 333x(7) (Rev. to 2001) provides, in relevant part:

The following persons shall be guilty of corrupt practices and shall be punished in accordance with the provisions of section 9-333y: . . .

  - (7) Any person who, directly or indirectly, individually or through another person, makes a payment or promise of payment to a campaign treasurer in a name other than the person's own, and any campaign treasurer who knowingly receives a payment or promise of payment, or enters or causes the same to be entered in the person's accounts in any other name than that of the person by whom such payment or promise of payment is made;
  - (8) Any person who knowingly and wilfully violates any provision of this chapter;

. . .

(10) Any person who solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter; . . .

14. The Complainant attended the fundraiser identified in paragraph 11, above, with Jim Gatling, Michael Ferguson and Dennis King. Each individual made a \$500 contribution to attend, and Complainant contends that they were each reimbursed by NSQ LLC for said contributions.
15. The Commission has obtained and reviewed bank records for NSQ LLC for the relevant period, and finds no checks issued from NSQ LLC to James Gatling or Dennis King following the fundraiser in question.
16. NSQ LLC issued a check for \$500 to Michael Ferguson on June 20, 2002, and a check for \$500 to David Gilmore on August 5, 2002. There is no notation on the memo section of either check.
17. Michael Ferguson claims that the \$500 check from NSQ was to reimburse him for expenses that he had incurred as President of NSQ LLC. He denies that the check represented a reimbursement for a political contribution.
18. David Gilmore claims that the \$500 check that he received was reimbursement for a political contribution. Michael Ferguson, James Gatling and Dennis King deny that NSQ LLC reimbursed the Complainant for a political contribution, and maintain that the amount represented a loan, which Complainant has never paid back.
19. Due to the conflicting witness testimony, and the lack of documentation making one version more likely than another, the Commission declines to take any further action in this matter.

### ORDER

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

The Complaint is dismissed.

Adopted this 25<sup>th</sup> day of March of 2009 at Hartford, Connecticut

  
Stephen F. Cashman, Chairman  
By Order of the Commission