

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Jennifer Ianucci, Bridgewater

File No. 2008-005

FINDINGS AND CONCLUSIONS

The Complainant brought this Complaint pursuant to Connecticut General Statutes § 9-7b and alleged various violations of the campaign finance laws against three separate committees formed in relation to referenda activity in the Region 12 School District in 2006 through 2008.

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

1. In January of 2008, the Complainant filed the instant complaint alleging:
 - a. That the referendum committee "Consolidate for Better Education" ("CFBE")—which was formed in February 2006 in relation to a March 2006 referendum in the Region 12 member towns, Washington, Roxbury and Bridgewater—failed to properly report the purchase of a bulk rate permit from the United States Post Office.
 - b. That CFBE failed to properly terminate and impermissibly distributed its surplus to another committee, "Straight Talk for Taxpayers" ("STFT") when STFT formed in April 2006 in relation to an April 2006 referendum in the member towns.
 - c. That STFT failed to report its expenditures in relation to the April 2006 referendum and again failed to report its expenditures after it re-formed under the same name in relation to a June 2006 referendum in the Region 12 member towns.
 - d. That the referendum committee "Shepaug Elementary School Advocates" ("SESA"), which was formed in January 2007 in anticipation of a referendum that was not yet pending at the time of its formation and stayed open until December 2008, was not a durational referendum committee, but an ongoing political committee and therefore impermissibly accepted aggregate contributions greater than the contribution limit for such committees during the 2007 calendar year for at least five individuals.
 - e. That Valerie Friedman, treasurer of both CFBE and SESA, impermissibly controlled two political committees because she failed to terminate CFBE and as such remained its treasurer while concurrently serving as treasurer of SESA.
 - f. That SESA failed to report expenditures and/or contributions in relation to its website.
2. According to filings with the Bridgewater, Roxbury, and Washington Town Clerks' offices, CFBE was first registered as a durational (single referendum) political committee in February of 2006. Respondent Valerie Friedman was designated as treasurer of that committee.

3. In her Complaint, the Complainant alleges that CFBE used a bulk mail permit from the United States Postal Service and failed to report the expenditure.
4. Commission staff has carefully inspected each and every filing related to CFBE and has found that in its March 8, 2006 *Statement of Receipts and Expenditures* (Form ED-45), CFBE reported expenditures directly to the Washington Postmaster totaling \$1,233.18 and a \$320 reimbursement to treasurer Valerie Friedman for post office expenses. In its March 31, 2006 *Statement of Receipts and Expenditures* (Form ED-45), CFBE reported a \$320 reimbursement to the treasurer, Respondent Valerie Friedman for post office expenses. In an amendment to the March 31, 2006 Statement, filed in March 4, 2008, the \$320 reimbursement is specifically enumerated as being for a bulk mail permit from the Washington Depot postmaster.
5. As such, the Commission finds that Respondent Friedman, as treasurer of CFBE, did not fail to report the purchase of a bulk mail permit from the United States Postal Service.
6. Turning to the Complainant's next allegation, she alleges that after the aforementioned March 2006 referendum, CFBE had a balance in its designated bank account, which it impermissibly distributed to STFT.
7. Respondent Friedman asserted that CFBE terminated when it filed its final *Statement of Receipts and Expenditures* (Form ED-45), dated March 31, 2006, with the town clerks of the member towns and at such time, all funds in the committee had been expended.
8. In an e-mail directed to Commission staff subsequent to filing the Complaint, the Complainant recanted her allegation that the CFBE carried a balance.
9. As such, the Commission finds that Respondent Valerie Friedman did not impermissibly distribute a surplus as treasurer of CFBE.
10. The Complainant further alleges that CFBE failed to properly terminate after its *Statement of Receipts and Expenditures* (Form ED-45), dated March 31, 2006 and as such, Respondent Friedman impermissibly controlled two political committees when she later became the treasurer of "Shepaug Elementary School Advocates" ("SESA") in 2007.
11. No person may control more than one political committee, including but not limited to durational referendum committees. General Statutes § 9-605 (e) (1) (Rev. to 2008), provides, in pertinent part:

No individual shall establish or control more than one political committee. The indicia of establishment or control of a political committee by an individual includes the individual serving as chairperson or campaign treasurer of the committee. . . .

12. Commission staff has carefully inspected each and every filing related to CFBE and has found that while its March 31, 2006 *Statement of Receipts and Expenditures* (Form ED-45), fails to check off the box labeled "termination," the evidence clearly

shows that this filing was intended to be the committee's terminal filing.¹ The committee reported no surplus funds and deficits owed and made no further filings with the appropriate filing repositories.

13. As such, the Commission finds that CFBE was terminated as of the March 31, 2006 filing and that Respondent Valerie Friedman did not control more than one political committee when she became treasurer of SESA in January 2007.
14. Turning to Complainant's next allegation, she alleges that "Straight Talk for Taxpayers" ("STFT") failed to report its expenditures in relation to the April 2006 referendum and again failed to report its expenditures after it re-formed under the same name in relation to a June 2006 referendum in the Region 12 member towns.
15. Specifically, Complainant alleges that during the April 2006 referendum STFT sent out a single-page, two-sided self-mailing letter under a bulk mail permit from the United States Postal Service to 3380 residents in the Region 12 member towns and sent a two-page, two-sided self-mailing letter during the June 2006 referendum. Complainant alleges that the Respondent, STFT treasurer Ross C. Detwiler, failed to report the expenditures related to the mailings, including but not limited to the cost of the bulk mail permit to send the mailers.
16. Two filings were made in 2006 under the name "Straight Talk for Taxpayers." First, STFT filed a *Certificate of Exemption from Itemized Reporting* (Form ED-46) dated April 18, 2006 indicating that the "Type of Committee" was a "Political Committee Formed for a Single Primary, Election or Referendum," that the "period covered" was April 10, 2006 through April 18, 2006 and that the filing was a "7th day preceding Election or Referendum" filing. The second filing was a nearly identically filled out *Certificate of Exemption from Itemized Reporting* (Form ED-46) dated June 5, 2006 indicating that the "Type of Committee" was a "Political Committee Formed for a Single Primary, Election or Referendum," that the "period covered" was June 1, 2006 through June, 2006 and that the filing was a "7th day preceding Election or Referendum" filing.
17. Respondent avers that he filed only the above two forms with the understanding that STFT planned on spending less than \$1,000 on each referendum—and did spend less than \$1,000 on each—and was therefore exempt from forming a referendum committee so long as it filed a certificate of exemption.
18. At all times relevant to the instant allegation, a group of two or more individuals who associated for the sole purpose of supporting the passage or defeat of a referendum question were required to either form a political committee, or if spending and/or raising less than \$1,000 file a certification. General Statutes § 9-333g (d) (Rev. to 2007), read, in pertinent part:

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

¹ In the aforementioned March 4, 2008 amendment, Respondent Friedman fixes this error.

section 9-333j, 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 9-333e 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 9-333w. 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 9-333j. 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

19. While neither the Complainant nor Respondent Detwiler have provided evidence of the costs of the aforementioned mailings, Commission staff's review found that the average cost of printing and mailing 3380 letters under a bulk mail permit in 2006 would not have exceed \$1,000. As such, the Commission concludes that STFT was exempted from forming a committee for either referendum.
20. Further, the Commission concludes that while STFT did not use the correct form to certify the aforementioned exemption, which at the time was the *Certificate of Exemption from Forming a Political Committee for a Referendum Question* (Form B-5), there is no evidence that this error was made in an effort to deceive the public or was otherwise made in bad faith.
21. As such, the Commission will take no further action with respect to STFT's failures to file the correct form.
22. Turning to Complainant's next allegation, she alleges that the political committee "Shepaug Elementary School Advocates" ("SESA"), through its treasurer Respondent Valerie Friedman, was not a durational referendum committee, as designated in its *Political Committee (PAC) Registration* (SEEC Form 3), but rather was an ongoing political committee, and as such was required to adhere to contribution limits of \$750 for individuals per calendar year. As alleged by the Complainant and substantiated by SESA's Statements of Receipts and Expenditures filed during the 2007 calendar year, five individuals contributed more than \$750 to SESA during that year.
23. On or about January 16, 2007, SESA filed a *Political Committee (PAC) Registration* (SEEC Form 3), designating Respondent Friedman as treasurer and establishing the committee as "Durational" whose purpose was in relation to a "Single Referendum Date" and listed the date as "TBD." In the form field which asks "Briefly describe the subject matter of the referendum question . . ." the SESA registration reads "to build a single elementary school in a Roxbury location for Region 12."

24. On or about December 4, 2008, approximately 23 months after registering, SESA filed an *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20) terminating the committee and distributing a \$5,134.44 surplus to a “tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.” General Statutes § 9-608 (e) (Rev. to 2008)
25. According to SESA’s January 10, 2008 *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20), SESA accepted contributions totaling \$15,120 and made expenditures totaling \$9,721.22 during the 2007 calendar year. Five individuals made contributions of greater than \$750 in the aggregate during the 2007 calendar year.
26. According to SESA’s July 10, 2008 and October 10, 2008 *Itemized Campaign Finance Disclosure Statements* (SEEC Form 20), it spent \$264.34 on website costs and postal expenses during the 2008 calendar year before terminating. There is no evidence presented by the Respondent that any of the expenditures made by the committee during its existence were for any other purpose than promoting a single elementary school in Region 12.
27. In an addendum to the Complaint, the Complainant alleged that “[a]t the time of [SESA’s] filing there was no referendum under consideration.” Complainant argues that because no referendum was pending at the time SESA registered its committee, SESA could not designate itself as a “durational” referendum committee, but rather was required to designate itself as an “ongoing” political committee. She further alleges that no referendum ever occurred regarding the subject matter of a single elementary school. She alleges that such a referendum concerning the subject matter was called by the Region 12 Board of Education for May 2007, but the referendum was withdrawn a week after it was called for failure to properly notice the member towns and that no referendum concerning that subject matter was called thereafter.
28. Respondent Friedman does not dispute the factual allegations regarding the referendum, insofar as one was called by the Board of Education, later withdrawn and then never recalled. However, Respondent argues that even though the referendum had not been called at the time of SESA’s registration, nor was ever held, SESA should not have been required to register as an ongoing political committee, or amend its registration at any point during its existence, and adhere to the contribution restrictions attendant to such ongoing political committees. She argues that SESA’s sole purpose was to support a “Yes” vote on consolidating the Region 12 elementary schools should such a referendum be called and further asserts that it raised contributions and made expenditures only for that purpose.
29. At all times relevant to the instant Complaint, the General Statutes required any group of two or more individuals to make filings with the town clerk of the relevant jurisdiction or jurisdictions when associating for the sole purpose of supporting the passage or defeat of a referendum question. General Statutes § 9-602 (a) reads in pertinent part:

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 . . . any party or referendum question, unless (1) the . . . 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) . . . in the event of a referendum question, a group of individuals has filed a certification in accordance with the provisions of section . . . 9-605. . . . 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.

30. General Statutes § 9-605 (d) (Rev. to 2008) reads in pertinent part:

. . .
If [a group of two or more individuals who have joined solely to promote the success or defeat of a referendum question] 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. [Its] 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.)

31. Where a group of two or more individuals has joined solely to promote the success or defeat of a referendum question, individuals may contribute unlimited funds to such committee. General Statutes § 9-612 (d) (Rev. to 2008) reads, in pertinent part:

Any individual may make unlimited contributions or expenditures to aid or promote the success or defeat of any referendum question. . . .

32. Where a group of two or more individuals have formed an ongoing political committee, individuals may contribute up to \$750 per calendar year to such committee. General Statutes § 9-612 (a) (Rev. to 2008) reads, in pertinent part:

No individual shall make a contribution or contributions in any one calendar year in excess of . . . seven hundred fifty dollars to any other political committee other than (1) a political committee formed solely to aid or promote the success or defeat of a referendum question. . . .

33. Where a group of two or more individuals has joined solely to promote the success or defeat of a referendum question, that group may only make expenditures to that end. General Statutes § 9-607 (g) (1) (Rev. to 2008) reads, in pertinent part:

(1) As used in this subsection, (A) "the lawful purposes of his committee" means: . . . (ii) for a political committee, the promoting of the success or defeat of . . . referendum questions, provided a political committee formed for a single referendum question shall not promote the success or defeat of any candidate. . . .

34. A durational referendum committee is generally required to distribute its surplus within 90 days after a referendum is held. General Statutes § 9-608 (e) (1) reads, in pertinent part:

Notwithstanding any provisions of this chapter, in the event of a surplus the campaign treasurer of a . . . political committee, other than a political committee formed for ongoing political activities or an exploratory committee, shall distribute or expend such surplus not later than ninety days after . . . an election or referendum not held in November or by January thirty-first following an election or referendum held in November . . .

35. Here, no evidence has been presented that SESA joined and formed for any other reason than to promote the success of a referendum to build a single elementary school for Region 12. Moreover, no evidence has been presented that SESA made expenditures to promote the success or defeat of any other referendum question or any candidate. Finally, there is no evidence that a referendum was ever held on the subject matter of a single elementary school.
36. As an initial matter, the Commission concludes that it was permissible for SESA to register as a durational referendum committee even though no such referendum had been called at the time of its registration. Where, as here, a group of two or more individuals register such a committee with the reasonable belief that such a referendum will be held in the future, there is nothing in either General Statutes §§ 9-602 or 9-605 preventing them from doing so or requiring them to register as an ongoing political committee.
37. Moreover, the Commission concludes that it was permissible for SESA to raise contributions and make expenditures in support of its position on the subject matter of the anticipated referendum. Where, as here, a group of two or more individuals register such a committee with the reasonable belief that such a referendum will be held in the future, there is nothing in General Statutes § 9-607 (g) (1) preventing them from making such expenditures, provided the expenditures accomplish the lawful purpose of the committee.
38. Finally, the Commission concludes that SESA was not required to terminate and/or distribute its surplus at any date prior to the date on which the committee did so voluntarily. SESA was a lawful durational referendum committee, but no referendum was held that would have triggered the surplus distribution requirements of General Statutes § 9-608 (e) (1).
39. Turning to Complainant's final allegation, she alleges that SESA failed to report expenditures and/or contributions in relation to its website.
40. In its April 10, 2008 *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20) SESA disclosed an expenditure reimbursing \$89.34 to deputy treasurer Frederick Stern for "SESA Website Hosting & Domain Name 2 Yrs. 1/07 – 12/08." In her response, the Respondent stated that the web design services were provided by volunteers and that Mr. Stern personally paid for 2 years of hosting and domain name

service in 2007, but only submitted a bill in January of 2008, just prior to the filing of the instant Complaint.

41. Here, the expenses for the website should have been reported at the time they were incurred as either a contribution from Mr. Stern or an expense incurred, but not paid by the committee. General Statutes § 9-608 (Rev. to 2008) holds, in pertinent part:

(a) Filing dates. (1) Each campaign treasurer of a committee, other than a state central committee, shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603 . . .

(c) (1) Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to: (A) An itemized accounting of each contribution, if any, including the full name and complete address of each contributor and the amount of the contribution; . . . (D) an itemized accounting of each expense incurred but not paid, . . .

42. Commission staff has carefully inspected each and every filing of the committee and has found that although the mistake alleged in the Complaint did in fact occur, such mistake was not egregious and was ultimately corrected prior to the filing of the Complaint. In addition, there is no evidence that such mistake was committed in an effort to deceive the public or was otherwise made in bad faith.

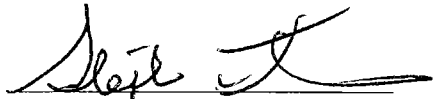
43. As such, the Commission will take no further action with respect to the failure to timely report the \$89.34 for the costs of the SESA website.

ORDER

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

That no further action be taken.

Adopted this 15th day of December, 2010 at Hartford, Connecticut.


Stephen F. Cashman, Chairperson
By Order of the Commission