

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Jonathan Searles, East Hartford

File No. 2008-161

FINDINGS AND CONCLUSIONS

Complainant brings this complaint pursuant to General Statutes § 9-7b alleging that the qualified candidate committee of Henry Genga, *Reelect Genga 2008*, had made impermissible contributions to several not-for-profit groups, including the East Hartford Democratic Town Committee, in violation of Regulations of Conn. State Agencies § 9-706-2 (b)(12) . The complainant also alleged that Respondent Genga had used a political committee he established in 2007 to promote his own candidacy in 2008. As alleged, the expenditures by the political committee, *Democrats of Excellence*, would have been coordinated expenditures and thus contributions to the candidate committee. Neither the political committee nor the candidate committee reported these expenditures as contributions to the candidate committee.

After the investigation of the Complainant's complaint, the Commission makes the following findings and conclusions:

1. Henry Genga established a candidate committee on January 29, 2008, declaring that he was a candidate for the 10th district seat in the General Assembly and naming Joseph R. Carlson as campaign treasurer and Robert J. Falkevitz as the committee's deputy treasurer. *See* SEEC Form 1 – Registration by Candidate (*Reelect Genga 2008*, Jan. 29, 2008).
2. On the same day, Genga completed Form CEP 10 indicating his intent to abide by the expenditure limits of the Citizens' Election Program. Genga signed and initialed the document indicating his acceptance of the provisions of the voluntary program as did Carlson in his role as campaign treasurer and Falkevitz as deputy treasurer. *See* SEEC Form CEP-10 (Jan. 29, 2008).
3. On April 11, 2008, Genga appointed William P. Horan as the candidate committee's campaign treasurer, replacing Carlson who resigned as treasurer on April 11, 2008. Genga, Horan, and Falkevitz, who remained deputy treasurer, executed a new CEP Form 10 to show the candidate's intention to abide by the voluntary spending rules imposed under the Citizens' Election Program. *See* SEEC Form 1 – Registration by Candidate (*Reelect Genga 2008*, April 11, 2008); SEEC Form CEP-10 (April 11, 2008).
4. Genga, who was first elected in a special election in January 2006 and subsequently elected to a full term in November 2006, used some surplus from that November 2006 campaign to establish *Democrats of Excellence*, a political committee. Joseph R. Carlson served as campaign treasurer of this political committee. *See* SEEC Form 3 – Political Committee Registration (*Democrats of Excellence*, Jan. 31, 2007).

5. Organized as an ongoing political committee, *Democrats of Excellence* is permitted to make contributions to both state and municipal candidates. *Id.* The committee was terminated on Dec. 17, 2009. See SEEC Form 20 – Termination (*Democrats of Excellence*, Dec. 17, 2009).
6. *Reelect Genga 2008* qualified for public financing from the Citizens' Election Fund and received a grant totaling \$7,240 on July 25, 2008. See SEEC Form 30 – October 10 Report (*Reelect Genga 2008*, Oct. 10, 2008).
7. Genga ran unopposed and was elected to a second full-term to the 10th district seat in the General Assembly on Nov. 4, 2008.
8. Complainant alleged *Reelect Genga 2008* made impermissible contributions to the East Hartford Summer Youth Festival, the East Hartford Democratic Town Committee, and the Podunk Bluegrass Music Festival.
9. In each instance, the candidate committee made a payment to the group for an advertisement in an event guide published by the group. The purchases were coded as "A-OTH" (Advertising Other) in the candidate committee's reporting on the expenditure. See SEEC Form 30 – October 10 Report (*Reelect Genga 2008*, Oct. 10, 2008).
10. The advertisement placed in the East Hartford Summer Youth Festival's playbill for its production of *Carousel* said "Good Luck Summer Youth Festival!!! From your friend, State Representative HENRY GENGA[.] Paid for by: Re-Elect Genga 2008, Bill Horan, Treasurer."
11. The advertisement placed in the program guide for the East Hartford Democratic Town Committee's 10th Annual Golf Tournament stated: "Best of Luck to All Golfers & the East Hartford Democratic Party State Representative Henry Genga 10th Assembly District[.] Paid for by Reelect Genga 2008 – William P. Horan, Treasurer."
12. The advertisement placed in the Podunk Bluegrass Music Festival's program guide stated: "Your State Representative HENRY GENGA Friend of the Podunk Bluegrass Music Festival[.] Paid for by Re-Elect Genga 2008 Treasurer, William P. Horan."
13. As a threshold matter, the Commission notes that the candidate committee's attributions on each of the advertisements were incorrect. The candidate committee omitted the portion of the attribution stating that the candidate approved the advertisements. See General Statutes § 9-621 (a)(2)(B). Given the relatively small cost of the advertisements involved as well as the committee's substantial compliance with the statutory requirements, the Commission will take no further action in this regard.
14. General Statutes § 9-607 (g) outlines the permissible expenditures for committees regulated by the Commission, including candidate committees. Among those permissible expenditures is "purchasing tickets or advertising from charities, inaugural committees, or

other civic organizations if for a political purpose . . .” General Statutes § 9-607 (g)(2)(U).

15. General Statutes § 9-706 (e) directed the Commission to adopt regulations governing how a qualified candidate committee may spend grant money it receives from the Citizens’ Election Fund. *See* General Statutes § 9-706 (e). The phrase “qualified candidate committee” refers to a candidate committee participating in the Citizens’ Election Program that has been approved by the Commission to receive a grant. *See* General Statutes §9-700 (12) (defining “qualified candidate committee”).
16. Qualified candidate committees may make payments for advertisements promoting the election or nomination of the candidate, but they may not make expenditures to or for the benefit of other committees. *See* Regs., Conn. State Agencies §§ 9-706-2 (a) (1) (allowing candidate committee to make expenditures to purchase advertising “from any communications medium”); 9-706-2 (b) (8) (prohibiting candidate committees from making expenditures to promote another candidate or committee).
17. The advertisements that *Reelect Genga 2008* purchased from the EHSYF and Podunk Bluegrass Music Festival candidate committee were similar to other advertisements in the publications in that the advertisements congratulated the groups on their work. The ads that *Reelect Genga 2008* placed, however, did promote the candidate in that they highlighted the candidate’s name. The ad in the EHSYF publication referred to the candidate as “From your friend, State Representative HENRY GENGA,” with the candidate’s name capitalized and underlined. Likewise, in the Podunk Bluegrass Music Festival’s guide, the campaign’s advertisement referred to “Your State Representative HENRY GENGA.”
18. Participating candidate committees may purchase advertising in any medium as long as the advertising promotes the nomination or election of the candidate. *See* Regs., Conn. State Agencies § 9-706-2 (a)(1).
19. Ideally, an advertisement for a candidate purchased with candidate committee funds should expressly promote the candidate, exhorting the reader to vote for or support the candidate. In this case, the ads that *Reelect Genga 2008* purchased in these two non-profit groups’ program guides promoted the candidate Genga. The candidate’s name was written in all caps and underlined, and he was identified as “your state representative.” While the ads did not specifically ask the reader to vote for the candidate, they did promote the candidate generally.
20. The committee’s ad in the East Hartford Democratic Town Committee also promoted the candidate generally, but the purchase of the advertisement from the party committee violates the prohibition on a qualified candidate committee making a payment to another committee. *See* Regs., Conn. State Agencies § 9-706-2 (b)(8).
21. The East Hartford Democratic Town Committee issued a check for \$100 to the Citizens’ Election Fund to refund the prohibited expenditure from the Genga candidate committee to

the East Hartford Democratic Town Committee. See SEEC Form 20 – October 10 Report (“East Hartford Democratic Town Committee,” October 11, 2009) (reflecting payment of \$100 from EHDTC to CEF as refund for Henry Genga).

22. By returning this money to the CEF, the party committee cured the improper payment from the qualified candidate committee. Because 2008 was the initial run of the Citizens’ Election Program and many of these subtle distinctions were not readily apparent to participating candidates, the Commission will take no further action regarding this improper expenditure made by the candidate committee.
23. The Complainant also alleged that the candidate’s political committee had made expenditures to benefit the candidate committee. Specifically, the complaint alleged that the political committee had purchased tickets to events, meals, and other services that benefitted the candidate.
24. The complainant alleged six instances where *Democrats of Excellence* made expenditures ostensibly to benefit the candidate:
 1. 2/15/08 – Tickets from Italian-American Legislative Caucus Fund for candidate and two other individuals to attend event (\$195);
 2. 2/19/08 – Tickets for “Mayor’s Charity Ball” for candidate and his wife, another couple, and another individual (\$400);
 3. 4/1/08 – Ticket for Connecticut Working Families Annual Awards Dinner for candidate (\$50);
 4. 5/10/08 – Stipend for intern who worked at Energy Forum sponsored by candidate (\$50);
 5. 8/13/08 – Catered luncheon for candidate and seven other individuals, including then gubernatorial candidate James Amann (\$113.41); and,
 6. 10/16/08 – Tickets to fundraiser for Working Families Campaign Committee for candidate and his spouse (\$50).
25. The Commission considers several indicia in determining whether an event is a campaign event promoting a candidate, including: whether the candidate was featured on invitations to the event; whether the media was alerted to the candidate’s presence; whether the candidate notified supporters that he or she would be there; whether the candidate distributes campaign literature; whether the candidate raised funds at the event; the extent to which the event targets that candidate’s voters or donors; and the extent to which the candidate is speaking at the event regarding his or her own campaign. See Advisory Opinion 2010-08 “Allocating *Pro Rata* Share for Joint Campaign Events” 1-2 (State Elections Enforcement Comm’n., July 28, 2010) (delineating indicia by which Commission considers whether “joint campaign event” promotes candidate to level such that attending candidate must share costs for event).
26. The Commission’s investigation confirmed that the political committee had made the expenditures identified in the complaint. The investigation, however, did not reveal any evidence that when the candidate attended the events he promoted his candidacy, raised funds for his candidate committee, or spoke to the gathering regarding his candidacy.

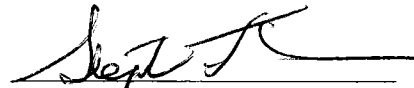
27. The investigation did not reveal that expenditures that *Democrats of Excellence* made for tickets, food, and reimbursements to committee workers were made to benefit the *Reelect Genga 2008* candidate committee.

ORDER

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

That no further action be taken.

Adopted this 16th day of March of 2011 at Hartford, Connecticut.



Stephen F. Cashman
By Order of the Commission