

STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Theodore W. Hintz, Jr.,  
Middle Haddam

File No. 2010-124

**FINDINGS AND CONCLUSIONS**

The Complainant filed this complaint with the Commission pursuant to General Statutes § 9-7b, alleging that a group of two or more individuals who were circulating pamphlets regarding a petition drive to cause a referendum in the Town of East Hampton failed to register a political committee and follow certain campaign finance rules of reporting and disclosure.

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

1. Complainant alleged that a group known as "TakeBackOurTown," or alternatively as "TakeBackOurTown.org" (hereinafter known collectively as "TBOT"), failed to:
  - a. Designate a campaign treasurer and depository institution;
  - b. File a registration statement with the East Hampton Town Clerk;
  - c. File an itemized campaign finance statement;
  - d. Provide disclaimers on their pamphlets and website; and
  - e. Disclose the proceeds from t-shirt sales;
2. Complainant further alleged that Mr. Kyle R. Dostaler, as Chairman of the Chatham Party, violated General Statutes § 9-605 (e) (1) by organizing TBOT, and therefore establishing and controlling more than one political committee. The Chatham Party is registered with the Secretary of the State as a minor party, and maintains a party committee pursuant to General Statutes Chapter 155 by the same name.
3. The TBOT website is registered to Mr. Dostaler of 56 William Drive, Town of East Hampton.
4. Complainant included printed copies of web pages from the TBOT website, as well as a mailer and a press release issued by the TBOT, which concerned the removal of the chief of police by the town council and a petition drive to cause a referendum to overturn that town council decision. The press release was issued October 14, 2010.

5. The attachments described in paragraph 4 above do not promote the success or defeat of a pending referendum. The copies of the aforementioned web pages include a copyright of "Take Back Our Town, East Hampton, CT," while the mailer includes a return address of "TakeBackOurTown.org, PO Box 1, Middle Hampton, CT 06456." The aforementioned October 14, 2010 press release provided a contact of Bill Marshall and details the efforts of TBOT petitioners to submit for approval petition signatures to the East Hampton Town clerk for a November 2, 2010 referendum. Finally, while the mailer discusses East Hampton dismissal of the chief of police, it does not mention either a referendum in any respect.
6. The attachments to the complaint that was filed with the Commission on October 19, 2009, detailed in paragraphs 4 and 5 above, do not include an exhortation to vote for or against a referendum, but rather detail attempts to trigger a referendum by petition. None of the attachments include the words "paid for by" or otherwise identify an individual as an agent of TBOT.
7. On October 19, 2010, the Town of East Hampton called a referendum for November 2, 2010 based on the TBOT petitions and qualifying signatures therein, and regarding whether the Town of East Hampton should abolish the position of chief of police. The public notice for the referendum was published on October 22, 2010.
8. There was no group registered with the name "TBOT" with the East Hampton Town Clerk pertaining to the November 2, 2010 referendum.
9. General Statutes § 9-602, provides in pertinent part:
  - (a) Except with respect to an individual acting alone, *or with respect to a group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate*, no contributions may be made, solicited or received and no expenditures may be made, directly or indirectly, *in aid of or in opposition to* the candidacy for nomination or election of any individual or *any* party or *referendum question*, unless (1) the candidate or 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) the candidate has filed a certification in accordance with the provisions of section 9-604. 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. [Emphasis added.]

10. General Statutes § 9-605 provides, in pertinent part:

(a) The chairperson of each political committee shall designate a campaign treasurer and may designate a deputy campaign treasurer. The campaign treasurer and any deputy campaign treasurer so designated shall sign a statement accepting the designation. The chairperson of each political committee shall file a registration statement described in subsection (b) of this section along with the statement signed by the designated campaign treasurer and deputy campaign treasurer with the proper authority, within ten days after its organization, . . .

...

(e) (1) *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 and may include*, but shall not be limited to, the individual making the initial contribution to the committee. Such indicia shall not include (A) an individual communicating with (i) an officer of the political committee, or (ii) *any individual establishing or controlling the political committee*, or (B) the individual monitoring contributions made by the political committee. Any individual who, on December 31, 2006, has established or controls more than one political committee shall, not later than thirty days after said date, disavow all but one of such committees, in writing, to the State Elections Enforcement Commission. The provisions of this subdivision shall not apply to the establishment of an exploratory committee by an elected public official. [Emphasis added.]

11. The threshold issue with regard to TBOT, is whether, at all times relevant to this complaint, TBOT received funds, or made or incurred costs "...in aid or opposition to ... [a] referendum question," and therefore triggered the application of General Statutes §§ 9-602 and 9-605 to the activities of TBOT as alleged.
12. The Commission finds, as described in paragraph 7 above that on October 19, 2010 the Town of East Hampton called a referendum for November 2, 2010, based on the TBOT petitions and qualifying signatures therein, regarding whether the Town of East Hampton should abolish the position of chief of police.
13. The Commission finds, based on the findings in paragraphs 4 and 5 above, that the attachments to this complaint, all of which *predated* the authorization of the November 2, 2010 referendum, were not therefore in aid of or opposition to a referendum. Rather, the materials pertained to petitioning for the calling of a referendum, and therefore any actions by TBOT in furtherance of the aforementioned petition drive occurred while a November 2, 2010 referendum was not a factual certainty.
14. The Commission finds, based on the findings in paragraph 12 and 13 above, that no funds were raised, and no expenditures were made or incurred in aid or opposition to a referendum question requiring TBOT to comply with provisions of General Statutes §§ 9-602 and 9-605 and form a political committee. As such, no violations of General Statutes §§ 9-602 and 9-605 occurred with regard to TBOT.
15. The Commission for the reasons detailed in paragraph 14 above dismisses the allegations pertaining to a failure to itemize and disclose receipts and expenditures, including any receipts or proceeds from the sale of t-shirts by TBOT as alleged, because such disclosures were not required of TBOT pursuant to General Statutes §§ 9-602 and 9-605.

16. General Statutes § 9-621, provides in pertinent part:

**(c) No ... group of two or more individuals who have joined solely to promote the success or defeat of a referendum question shall make or incur any expenditure for any written, typed or other printed communication which promotes the success or defeat of any referendum question unless such communication bears upon its face the words "paid for by" and ... in the case of such a group of two or more individuals, the name of the group and the name and address of its agent.**

[Emphasis Added.]

17. The Commission concludes, based on its findings in paragraphs 13 and 14 above, that the attachments to this complaint do not evidence TBOT's *aid or opposition to a referendum*, and therefore the group was not required to comply with the disclaimer requirements of General Statutes § 9-621 (c). As such, TBOT was not required to provide an attribution on its website communications, press release, or its mailer referenced in paragraphs 4 and 5 above. Accordingly, for the reasons stated above, the Commission dismisses the allegations concerning TBOT's failure to provide an attribution on the attachments to this complaint in violation of General Statutes § 9-621 (c).

18. With regard to Complainant's allegation pertaining to Mr. Dostaler establishing or controlling more than one political committee, as detailed in paragraph 2 above, the Commission finds that, for the reasons described in paragraphs 8 and 14 above, Mr. Dostaler did not (nor was he required to) establish and control TBOT by registering it with the East Hampton Town Clerk, while Chairperson of the Chatham Party.

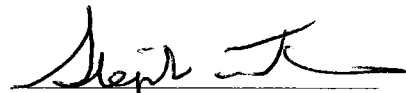
19. The Commission for the reasons and circumstances described in paragraph 18 and detailed herein conclude that Mr. Dostaler did not violate General Statutes § 9-605 (e) (1), by establishing and controlling TBOT, while Chatham Party Chairperson as alleged. The Commission therefore dismisses the alleged violation of § 9-605 (e) (1) for the reasons so stated.

### ORDER

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

That this complaint is dismissed.

Adopted this 18<sup>th</sup> day of May, 2011 at Hartford, Connecticut



Stephen F. Cashman, Chairman  
By Order of the Commission