

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Devon Pfeifer,
Fairfield

File No. 2010-131

FINDINGS AND CONCLUSIONS

The Complainant, Devon J. Pfeifer of Fairfield, Connecticut, filed this complaint with the Commission pursuant to General Statutes § 9-7b. The Complainant alleged that the candidate committee *McKinney for Senate* accepted an improper contribution from *Debicella for Congress*, a federal candidate committee. After an investigation of the matter, the Commission makes the following findings and conclusions:

1. On January 28, 2010, State Senator John McKinney registered “McKinney for Senate, (hereinafter McKinney Committee)” a candidate committee for the 28th Senate District at the November 2, 2010 election, and designated John Shannon of Trumbull, Connecticut, as his treasurer.
2. Complainant alleged that a mailer distributed by the federal candidate committee of Mr. Dan Debicella, “Debicella for Congress (hereinafter “Debicella Committee),” which included pictures of and language pertaining to Senator McKinney, was a contribution pursuant to General Statutes § 9-601(b)(a) and therefore prohibited by § 9-616 (a).

3. Specifically, Complainant alleged that the Debicella Committee mailer:

[C]an only be interpreted as promoting the candidacies of both Mr. Debicella and Senator McKinney and is thus an improper contribution accepted by McKinney for Senate. The Mailer was disseminated in close proximity to the election to voters of Senator McKinney’s district. Senator McKinney is primarily featured throughout the advertisement, and notes that he “worked closely in the State Senate” with Mr. Debicella, thus aligning Mr. Debicella’s accomplishments in the State Senate with his own. ...

[Original emphasis.]

4. General Statutes § 9-601b provides, in pertinent part:

(a) As used in this chapter and chapter 157, “**contribution**” means:

(1) Any gift, subscription, loan, advance, payment or deposit of money or **anything of value, made for the purpose of influencing the** nomination for election, or **election, of any person** or for the purpose of aiding or promoting the success or defeat of any referendum question or on behalf of any political party;

... [Emphasis added.]

5. General Statutes § 9-616 provides:

(b) A *candidate committee shall not receive contributions from any* national committee or from a committee of a *candidate for federal* or out-of-state *office*.
[Emphasis added.]

6. The Commission concludes and has recently affirmed that, consistent with its past cases, interpretations and applications of General Statutes §§ 9-601a, 9-610, and 9-616, a candidate's appearance in an advertisement paid for by another candidate committee that promotes the election of the sponsoring committee's candidate does not necessarily result in the conclusion that the communication was made for the purpose of influencing the nomination of the first candidate. *See Complaint of Pasquale Salemi*, East Hartford File No. 2010-091. *See also* State Elections Enforcement Commission Advisory Opinion 1986-3 (*Propriety of Appearance of Federal Candidate in Advertisement Endorsing Re-Election of Statewide Candidate*), *Complaint by Mary Oliver*, Hampton, File No. 2008-176, and *Complaint by Carl J. Strand*, File No. 2008-150.

7. Upon investigation, the Commission finds that the Debicella Committee mailer includes the following in part: *Senator John McKinney Support Dan Debicella for Congress. – Why Senator John McKinney Supports Dan Debicella for Congress*. The two-sided mailer includes an exhortation to vote for and a statement in support of Mr. Debicella by Senator McKinney. Each side includes a photo of Mr. Debicella together with Senator McKinney, and the latter's title as member of the Connecticut legislature. The mailer does *not* otherwise indicate that Senator McKinney is a candidate for re-election, include an exhortation to vote for Senator McKinney, or provide a reference to his legislative record or accomplishments.

8. The Commission concludes that the evidence contained in the mailer subject of this complaint, and detailed in paragraph 7 above, is insufficient to find that the advertisement promoted the candidacy of Senator McKinney. In making this conclusion, the Commission notes the absence of any reference to the appearing candidate's: (1) candidacy; (2) legislative record or policies; (3) exhortation to vote; and (4) any text identifying the record or accomplishments of the appearing candidate in a laudatory manner. For applications of these and similar factors. *Complaint by Mary Oliver*, Hampton, File No. 2008-176 and *Complaint by Carl J. Strand*, File No. 2008-150.

9. Considering the above referenced prior decisions of the Commission, upon which the public could reasonably expect to rely on, at the time the expenditures for the advertisements were made, the Commission declines to further investigate either campaign or candidate regarding these findings.

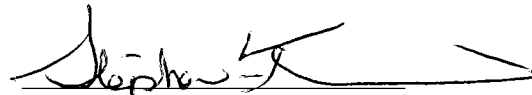
10. For the reasons stated above, the Commission concludes that the evidence is insufficient to find a violation of General Statutes § 9-616 (a) as alleged, and therefore dismisses the complaint.

ORDER

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

That the complaint is dismissed.

Adopted this 27th day of June, 2012 at Hartford, Connecticut

A handwritten signature in black ink, appearing to read "Stephen F. Cashman", written over a horizontal line.

Stephen F. Cashman, Chairman
By Order of the Commission