

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

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

File No. 2011-110

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b, alleging that the Respondent, Victoria Brinius, a candidate for the East Hartford Board of Education in the 2011 Republican primary, made expenditures promoting her candidacy by anonymously posting blog entries on a website without including an attribution stating who paid for or approved communication as required by § 9-621 (a).

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

1. At all times relevant hereto, the Respondent, Victoria Brinius, was a candidate for the East Hartford Board of Education registered as such with the East Hartford Town Clerk.
2. The Complainant served as the developer for the East Hartford Republican Town Committee's website. Utilizing his position, the Complainant investigated certain anonymous postings concerning candidates in the East Hartford 2011 Republican primary. The Complainant states that his own investigation included examinations of unique computer internet protocol addresses, timestamps, internal party e-mail exchanges and server logs. The Complainant also states his investigation used a "honey pot" e-mail address, which the Commission understands to be a concealed means to collect information from e-mail correspondents, allegedly including the Respondent's e-mail address.
3. Based upon the Complainant's own investigation, the Complainant concluded that certain anonymous communications appearing on the blog titled, *East Hartford Citizens Speak Out and Be Heard*, which either promoted the Respondent's candidacy or opposed the candidacy of others, and which lacked an attribution stating who paid for or approved communication were authored by the Respondent (the "blog posts").
4. The Respondent has provided a written statement in which she admitted authorship of the one letter that appeared in her name on the blog and which also appeared in the *East Hartford Gazette*, but denied her authorship of the blog posts and stated that she has "no knowledge of who may or may not have written on the blog." As a possible explanation, the Respondent offers that she has more than one computer in her residence and is not the only person who lives at the address. The Respondent states that she has many friends and relatives with laptops

to whom she makes her internet access generally available.

5. General Statutes § 9-621 (a), provides, in relevant part:

[N]o candidate or committee shall make or incur any expenditure ... for any written, typed or other printed communication, or any web-based, written communication, which promotes the success or defeat of any candidate's campaign for nomination at a primary or election ... unless such communication bears upon its face (1) the words "paid for by" and the following: (A) In the case of such an individual, the name and address of such individual ..., and (2) the words "approved by" and the following: (A) In the case of an individual, group or committee other than a candidate committee making or incurring an expenditure with the consent of, in coordination with or in consultation with any candidate ... the name of the candidate....

6. Connecticut has no *de minimis* threshold determining when an expenditure results in an attribution requirement. See, *Seymour v. Elections Enforcement Commission*, 255 Conn Sup. 78, at 102, footnote 15.
7. State Elections Enforcement Commission Advisory Opinion No. 2010-05: *Propriety of Hyperlinks on Candidate Committee Website to Other Committee Websites, Certain Media Pieces and Commercial Websites* (May 26, 2010), in explaining candidate committee reporting requirements, identified various expenditures associated with candidate websites:

.... [C]ommittees must report any costs associated with a candidate committee website and hyperlinks - e.g., domain name registry, hosting costs, website maintenance and creation, bandwidth - as it would any other campaign committee expenditures in support of your candidacy. See, e.g., *In the Matter of a Complaint by Frank DeJesus*, Hartford, File No. 2006-193 (civil penalty imposed for failure to report expenditure related to purchase and payment of web hosting services for website that, at various times, contained messages made for the purpose of influencing an election); *In the Matter of a Complaint by Joseph Klett*, Newington, File No. 2004-167 (finding website design services, Internet hosting and support services for candidate committee website were campaign expenditures necessitating reporting)... Furthermore, as with any web-based communication

promoting the success of your campaign, your candidate committee website must bear upon its face the appropriate attributions pursuant to General Statutes § 9-621 (a).

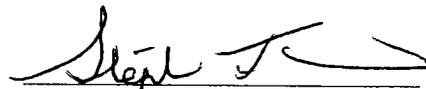
8. Based on the above, the Commission notes that, pursuant to § 9-621 (a), as a candidate, to the extent that the Respondent made any expenditures for written communications to promote or oppose candidates, including the one letter that she acknowledges posting on the blog, and which separately appeared in the *East Hartford Gazette*, she was required to provide an attribution on the face of the communication stating who paid for and approved the communication. Candidates do not enjoy the same right to anonymous political speech as independent members of the general public for communications subject to the requirements of § 9-621 (a), even when expenditures for such communications would conventionally be considered negligible.
9. Given the negligible expenditures involved in the allegation and the absence of a record of any prior violations by the Respondent, the Commission declines to take further action. The Respondent is instructed to ensure that she makes all attributions required by § 9-621 (a) during any future candidacy or campaign and is encouraged to contact the Commission's Compliance Unit with any questions regarding such future actions.

ORDER

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

That no further action be taken.

Adopted this 25th day of April of 2012 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission