

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
M. Kirk Carr, Jr., Clinton

File No. 2012-083

FINDINGS AND CONCLUSIONS

The Complainant filed this Complaint pursuant to Connecticut General Statutes § 9-7b. The Complainant alleges that the a group called “mobilizeclinton.org,” which spent funds concerning the 2012 Clinton town budget referendum, failed to properly include the required “paid for by” and “approved by” language on the face of written internet communications in violation of General Statutes § 9-621 (a) or otherwise register and report the activities of its alleged political committee as required by General Statutes §§ 9-602 and 9-608. The Complainant further alleges the involvement of a group, subsequently identified as the registered political committee, *New Future, New Morgan*, as well as Valerie Nye, a registered member of such group, in the distribution of a flyer, which failed to properly include the required “paid for by” and “approved by” language on the face of the communication in violation of General Statutes § 9-621 (a). Lastly, the Complainant alleges that a lawn sign similarly lacked an attribution required by § 9-621 (a). This final allegation remained outside the scope of the investigation as such signs are exempt from the above attribution requirement under § 9-621 (d) (4).

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

1. A website called “mobilizeclinton.org” was used to make communications regarding the 2012 Clinton town budget referendum.
2. At all times relevant hereto, *New Future, New Morgan*, was a political committee formed in relation to the 2012 Clinton town budget referendum, registered as such with the Clinton Town Clerk pursuant to General Statutes § 9-602, filed reports with such clerk pursuant to General Statutes §§ 9-603 and 9-608, and operated the website “newmorgan.org.”
3. At all times relevant hereto, Valerie Nye was a registered member of the *New Future, New Morgan* committee.
4. The investigation finds that the individual responsible for “mobilizeclinton.org” (the “Respondent”) was acting alone in making any expenditures for such website and that, based on available evidence, there is no reasonable inference that the cost of any such activity exceeded the \$1,000.00 expenditure threshold requiring the filing of a statement with the Clinton Town Clerk under General Statutes § 9-612 (d).

5. General Statutes § 9-621 (a), governing attributions on political advertising, provides:

No individual shall make or incur any expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate's agent, no group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee shall make or incur any expenditure, and no candidate or committee shall make or incur any expenditure including an organization expenditure for a party candidate listing, as defined in subparagraph (A) of subdivision (25) of section 9-601, 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 or promotes or opposes any political party or solicits funds to benefit any political party or committee 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; (B) in the case of a committee other than a party committee, the name of the committee and its campaign treasurer; (C) in the case of a party committee, the name of the committee; or (D) in the case of a group of two or more individuals that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee, the name of the group and the name and address of its agent, 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, candidate committee or candidate's agent, the name of the candidate; or (B) in the case of a candidate committee, the name of the candidate. [Emphasis added.]

6. Pursuant to § 9-621 (a), individuals acting alone, are not required to include attributions on advocacy communications concerning referenda, as mandated by the Supreme Court's ruling in *McIntyre v. Ohio Elections Commission*, 541 U.S. 334 (1995). See *Complaint of Pamela Lang, Middlefield*, File No. 2006-168, *Complaint of Arthur R. Thompson, Deep River*, File No. 2007-380, *Complaint of Amy Primorac, Monroe*, File No. 2009-064, *Complaint by Old Saybrook Town Clerk Sarah Becker*, File No. 2001-191, *Complaint of Tony Palermo, Westbrook*, File No. 2003-186.


7. The Respondent claims that the communications contained in "mobilizeclinton.org" did not constitute advocacy communications that would fall within the definition of expenditure under General Statutes § 9-601b. Because the matter may be resolved on the narrower issues identified above, the Commission reserves judgment on such question.
8. In addition to the communications acknowledged by the Respondent, the Complainant alleges that the Respondent was involved in the production and/or dissemination of an unrelated flyer, which also took a position regarding the Clinton 2012 budget referendum (the "flyer"). The Respondent denies this accusation and no available evidence links the Respondent with the flyer. The origin of the flyer remains unknown.
9. While the Complaint has alleged that individuals associated with the *New Future, New Morgan* committee, including Valerie Nye, were involved in the flyer's dissemination, they deny any expenditure for its production, have fully explained any potentially related expenditures by the committee, and the style of the flyer does not match any other known communications distributed by the committee for this purpose.
10. The evidence obtained in the course of the investigation does not indicate a reasonable likelihood of identifying the person or persons making expenditures for the flyer.
11. As described above regarding the inapplicability of the attribution statute in § 9-621 (a) to individuals acting alone and the \$1,000.00 threshold for requiring the filing of statements by such individuals under § 9-612 (d), the existence of the flyer alone is not evidence that any violation of the election laws necessarily occurred.
12. The Respondent and the agents of *New Future, New Morgan* have cooperated fully with the investigation.

ORDER

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

That the Complaint be dismissed.

Adopted this 16 th day of January, 2013 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission
3 Stephen Casimira