

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Peter von Braun, Greenwich

File No. 2015-192A

FINDINGS AND CONCLUSIONS

The Complaint in this matter concerns various alleged violations relating to the municipal elections in the town of Greenwich on November 3, 2015. As detailed hereinafter, it is the Commissions determination that the Counts of the complaint noted herein should be dismissed.¹

PARTIES

1. Complainant Peter von Braun was, at all times relevant hereto, a candidate for the Board of Education in the Town of Greenwich for the November 3, 2015 municipal elections.
2. Respondent Barbara O'Neil was, at all times relevant hereto, a candidate for the Board of Education in the Town of Greenwich for the November 3, 2015 municipal elections.
3. Respondent Debora Hess was, at all times relevant hereto, the treasurer of Respondent O'Neil's candidate committee, Committee to Re-Elect Barbara O'Neil.
4. Respondent Steve Warzoha was, at all times relevant hereto, a volunteer with the Greenwich Republican Town Committee
5. Respondent Peter Bernstein was, at all times relevant hereto, a member of the Board of Education in the Town of Greenwich, but not a candidate in the November 3, 2015 municipal elections.
6. Respondent Lauren Rabin was, at all times relevant hereto, the treasurer of the Greenwich Republican Town Committee.

¹ Allegations concerning alleged use of committee resources of the Committee to Re-Elect Barbara O'Neil to promote another candidate shall be addressed in a separate document.

COUNT I

7. Complainant alleges that Respondent O'Neil "did not file SEEC form 20 for September 2015, 2 form 20s for October 2015, and the final report due seven days after the election."
8. Pursuant to §§ 9-603, 9-604 and 9-608, treasurers must file registration and campaign finance disclosure statements on or by certain calendar dates or other triggering dates. Specifically, General Statutes § 9-608 (a) provides, in relevant part, as follows:

(1) Each treasurer of a committee, other than a state central committee, shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603, (A) *on the tenth calendar day in the months of January, April, July and October, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, the statement shall be filed on the next business day . . . , (B) . . . (i) in the case of a candidate or exploratory committee established for an office to be elected at a municipal election, the statement shall be filed on the seventh day preceding a regular municipal election in lieu of such date, except if the candidate's name is not eligible to appear on the ballot, in which case such statement shall not be required,* The statement shall be complete as of eleven fifty-nine o'clock p.m. of the last day of the month preceding the month in which the statement is required to be filed, except that for the statement required to be filed on the seventh day preceding the election, primary or referendum, the statement shall be complete as of eleven fifty-nine o'clock p.m. of the second day immediately preceding the required filing day. The statement shall cover a period to begin with the first day not included in the last filed statement. *In the case of a candidate committee, the statement required to be filed in January shall be in lieu of the statement formerly required to be filed within forty-five days following an election.*

(Emphasis added).

9. General Statutes § 9-623 (b) further provides as follows:

(1) If any campaign treasurer fails to file any statement required by section 9-608, or if any candidate fails to file either (A) a statement for the formation of a candidate committee as required by section 9-

604, or (B) a certification pursuant to section 9-603 that the candidate is exempt from forming a candidate committee as required by section 9-604, within the time required, the campaign treasurer or candidate, as the case maybe, shall pay a late filing fee of one hundred dollars. . . . (3) In the case of any such statement or certification that is required to be filed with a town clerk, the town clerk shall forthwith after the filing deadline is, or should be, known to have passed, notify by certified mail, return receipt requested, the person required to file that, if such statement or certification is not filed not later than seven days after the town clerk mails such notice, the town clerk shall notify the State Elections Enforcement Commission that the person is in violation of section 9-603, 9-604, or 9-608. (4) The penalty for any violation of section 9-603, 9-604 or 9-608 shall be a fine of not less than two hundred dollars or more than two thousand dollars or imprisonment for not more than one year, or both.

10. Thus, while it is Respondent O'Neil named in this Count, it is Respondent Hess, as treasurer of the Committee to Re-Elect Barbara O'Neil, who is responsible for filing financial disclosure statements, and would bear liability if there is a violation associated therewith.
11. As the Committee to Re-Elect Barbara O'Neil was a candidate committee established to support a municipal candidate in a November municipal election, Respondent Hess was obligated to file financial disclosure statements on October 13, 2015² and October 27, 2015³. Under Connecticut law, there is no requirement to file a financial disclosure statement "seven days after the election" as alleged by the Complainant.
12. A review of the financial disclosure statements filed with the Greenwich Town Clerk shows, and Respondent Hess admits, that the October 13, 2015 financial disclosure statement and the October 27, 2015 financial disclosure statement were not filed until December 9, 2015.
13. Pursuant to General Statutes § 9-623, the town clerk was obligated to assess a one hundred dollar late filing fee against Respondent Hess for each late filing and was further required to notify the Respondent, by certified mail, that failure to file statements within seven days of

² The filing that would typically be due on October 10, was extended, pursuant to General Statutes § 9-608 (a), to October 13 due to an intervening weekend and state holiday.

³ October 27, 2015 was seven days prior to the November 3, 2015 election.

receipt of such certified mail would subject them to referral to the Commission for enforcement.

14. Evidence shows that no such letter was ever sent to Respondent Hess.
15. Accordingly, as the Respondent never received the required notice letter and has already made the filing, this Count should be dismissed.
16. However, the Commission notes that the Greenwich Town Clerk does have a continuing responsibility to collect all outstanding late fees, including those incurred by the Respondent.
17. The Commission further notes that the Greenwich Town Clerk should have sent the required notices pursuant to General Statutes § 9-623 in a timely manner. While the Commission, in its discretion, elects not to pursue such failure at this time, the Commission cautions that failure to collect fees and send required notices pursuant to General Statutes § 9-623 are violations for which the Commission may, and has pursued actions against Town Clerks.
18. Thus, the Commission shall forward a copy of this order to the Greenwich Town Clerk.

COUNT II

19. In Count II, the Complainant alleges that “O’Neil did not report the identity of the campaign donors, who provided the funds to support what appear to be substantial expenditures[.]”
20. General Statutes § 9-608 (c) requires, *inter alia*, that all expenditures by a candidate committee and contributions to a candidate committee be reported in periodic financial reports.
21. After a thorough investigation, the evidence shows that, while late, the contributions to and expenditures by the Committee to Re-Elect Barbara O’Neil were detailed in the financial disclosure statements.
22. While those statements were filed late (see Count I), the requisite reporting was made, and thus, this Count should be dismissed.

COUNT III

23. The Complaint alleges that “the Republican Town Committee campaign manager, Stephen Warzoa, did not equally allocate RTC resources to all candidates nominated and endorsed by the RTC, but favored certain candidates[.]”
24. Pursuant to General Statutes § 9-606, it is the treasurer, not a “campaign manager” that is responsible for authorizing all expenditures of a committee.
25. According to the registration statement of the Greenwich Republican Town Committee on file with the Commission, Respondent Rabin was and is the Treasurer of the Greenwich Republican Town Committee.
26. However, there is no statute or regulation within the jurisdiction of the Commission that requires a party committee to spend equally on all candidates they support or endorse.
27. The Commission further notes that, while not required to do so, the Greenwich Republican Town Committee did in fact make organization expenditures that supported the Complainant.
28. Accordingly, this count should be dismissed.

COUNT IV

29. The Complainant alleges that “Warzoa also sent out emails and posted material on a website clearly tying O’Neil to the very popular Republican candidate for @ [sic] 1st Selectman in a manner that appeared to be an endorsement by Tesei of O’Neil, which was not true.”
30. Monitoring the veracity of statements made in campaign literature is not a duty delegated to the Commission.
31. Accordingly, this Count should be dismissed.

Count V

32. The Complainant states that “It is unclear how much of the RTC’s resources were used by Warzoa to support O’Neil, but it must have been a lot.”

33. As noted above, pursuant to General Statutes § 9-606, it is the treasurer, not a “campaign manager” that is responsible for authorizing all expenditures of a committee, and Respondent Rabin was, at all times relevant hereto, the treasurer of the Greenwich Republican Town Committee.
34. Pursuant to General Statutes § 9-601a, Organization Expenditures by party committees are exempt from the definition of expenditure.
35. Accordingly, the Greenwich Republican Town Committee was permitted to make unlimited organization expenditures for the benefit of Respondent O’Neil in addition to the \$1,500 the party committee was permitted to contribute to Respondent O’Neil’s campaign committee pursuant to General Statutes § 9-617.
36. A review of the financial disclosure statements by the Greenwich Republican Town Committee do not show any contributions from the Greenwich Republican Town Committee to the Committee to Re-Elect Barbara O’Neil nor did the investigation reveal any evidence to support such an allegation.
37. Accordingly, this count should be dismissed.

COUNT VI

38. Complainant alleges that Greenwich school system resources, such as email lists, were used without authorization by the O’Neil Campaign.
39. The Commission has commented at length in prior cases concerning the use of public resources to support a political campaign. *See e.g., Complaint of Curtis W. Dowling, Andover, File No. 2015-028; Complaint of Jonathon Pelto, Storrs, File No. 2009-104.*
40. In this matter, the documents provided by the Complainant do not support the allegations. Moreover, all other parties interviewed concerning this matter deny that any public resources were used, and no evidence to the contrary was discovered.
41. Accordingly, this Count should be dismissed.

COUNT VII

42. The Complainant alleges that Respondent Bernstein “used his 2013 campaign platform to send pleas to support O’Neil and no report was filed to cover this activity.”

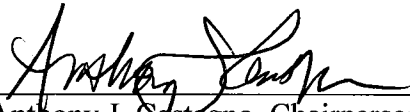
43. General Statutes § 9-608 (c) requires, *inter alia*, that all expenditures by a candidate committee and all contributions to a candidate committee be reported in periodic financial reports.
44. Contributions other than cash, also known as in-kind contributions, are considered contributions under Connecticut elections laws and are required to be disclosed in a candidate committee's financial disclosure statement. General Statutes §§ 9-601a & 9-608 (c).
45. Thus, if Respondent Bernstein were to have made an in-kind contribution to the Committee to Re-Elect Barbara O'Neil, Respondent Hess, as the campaign committee treasurer, would have been required to report it on the committee's financial disclosure statements.
46. Independent expenditures, however, are specifically excluded from the definition of contribution. General Statutes §§ 9-601a (a) (4) & 9-601c.
47. There is no allegation, and there is no evidence to support an allegation, that any email sent by Respondent Bernstein was coordinated with the Committee to Re-Elect Barbara O'Neil. Nor is there any allegation, or evidence to support an allegation, the emails sent by Respondent Bernstein exceeded \$1,000, which otherwise would have triggered a requirement for Respondent Bernstein to file a financial disclosure statement pursuant to General Statutes § 9-601d (a).
48. Accordingly, this count should be dismissed.

ORDER

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

Counts I, II, III, IV, V, VI, and VII are dismissed.

Adopted this 1 th day of May, 2016 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission