

STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Christopher Healey,  
Wethersfield

File No. 2008-137A

FINDINGS AND CONCLUSIONS

Complainant filed the instant complaint with the Commission pursuant to General Statutes §9-7b, alleging that the political committee ctblue2's website [www.ctblue2.org](http://www.ctblue2.org) contained biographical information and an endorsement for John Hartwell's candidacy and as such, constituted a violation of the campaign finance laws and the Citizens Election Program because a non-leadership political committee made a contribution to the candidate committee of a participating candidate.

After an investigation of the matter, the State Elections Enforcement Commission (hereinafter Commission) makes the following findings and conclusions:

1. Complainant is the Chairman of the Connecticut Republicans and alleged specifically that the [www.ctblue2.org](http://www.ctblue2.org) website contained both campaign biography information for John Hartwell and an endorsement for John Hartwell in violation of the Citizens' Election Program. Complainant appears to allege that the endorsement was a violation of Citizens' Election Program requirements because a non-leadership political committee can not make an organization expenditure.
2. Connecticut Blue 2 (hereinafter CT Blue 2) is a political committee as that term is defined in General Statutes § 9-601(3). CT Blue 2 is registered with the Commission as an ongoing political committee of two or more individuals for both State and Municipal Elections. Christine Halfar is the duly designated treasurer of CT Blue 2.
3. John Hartwell was a Democratic candidate for State Senate in the 26<sup>th</sup> Senatorial District for the November 4, 2008 election and as a participating candidate in the Citizens' Election Program. His candidate committee, John Hartwell 2008, filed a *Citizens' Election Program-Application for Grant (SEEC Form CEP 15)* with the Commission on June 26, 2008 and the Commission awarded his candidate committee a grant on July 2, 2008.
4. On or about April 23, 2008, CT Blue 2 posted their endorsement of John Hartwell along with certain biographical information about the candidate on to their website.
5. General Statutes § 9-601b provides in pertinent part:

(a) As used in this chapter and sections 9-700 to 9-716, inclusive, the term "*expenditure*" means:

(1) Any purchase, payment, distribution, loan, advance, deposit or gift of money or *anything of value, when 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;*

6. In State Elections Enforcement Commission Advisory Opinion 2008-01: *Proposed Political Activity of Nonprofit Association* p. 7, it was the advice of the Commission that "[B]ecause an endorsement advocates for the election of a specific candidate, any costs associated with the endorsement fall within the definition of an expenditure."
7. State Elections Enforcement Commission Advisory Opinion 2008-01 further provides: "[U]se of the Internet to communicate with the public would be considered an expenditure subject to Connecticut's campaign finance laws. See, e.g., *In the Matter of a Complaint by Frank DeJesus, Hartford, State Elections Enforcement Commission 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).
8. It should be noted that the website that the Complainant complained of was attacked by a hacker identifying him or her self as "the Turkish hacker" on or about October 17, 2008, shortly after the Complainant filed this complaint. The hacker rendered the website virtually inoperable and made it extremely difficult to retrieve any relevant information from the website pertaining to the allegations by the Complainant.
9. A review of the former content provided by CT Blue 2 reveals the following information appears to have been posted:

"CT Blue 2 Endorses John Hartwell for State Senate." The Connecticut Blue 2 PAC announces the endorsement of John Hartwell for State Senate in the 26<sup>th</sup> Senate District, which includes parts of Bethel and Redding.

"CT Blue 2 Endorses John Hartwell." Connecticut Blue 2 PAC is pleased to announce its endorsement of John Hartwell for State Senate. John's progressive credentials go back four decades. He earned his undergraduate degree in political science at Earlham College and in 1968 worked for Eugene McCarthy's Presidential campaign, first as a

Student organizer and then as an advance man. He continued to work in politics after college on political campaigns based in Indiana, Colorado And Washington, D.C. John is best know to the Connecticut progressive community for his work as treasurer on Ned Lamont's watershed U.S. Senate campaign in 2006 and as a 4<sup>th</sup> Congressional District coordinator for Howard Dean in 2004. John is a successful international management consultant living in Westport. He and his wife, Janet, recently celebrated their 30<sup>th</sup> anniversary and have two children: Elliot, who works in Boston, and Chloe, who is in graduate school at Georgetown. In his campaign for State Senate, John has staked out level-headed, progressive positions on healthcare, transportation, education, smart development and housing. His thinking is informed by financial know-how, earned over a 30 year career in finance and backed by a masters degree in Public and Private Management from Yale. We particularly like John's call for allowing municipal workers, small business employees and the self-employed to be able to buy into the state healthcare program that is available to state employees and lawmakers. This is a good first step toward providing universal coverage that won't break the bank. If politics is the "art of possible," then John Hartwell has the right approach. View his website at <http://johnhartwell.com>, [www.johnhartwell2008.com](http://www.johnhartwell2008.com).

10. The actual CT Blue 2 endorsement is 13 sentences, of the 13 sentences, 8 of them are not similar to the content contained on the Hartwell campaign's website and parts of 5 of the sentences are similar to information contained on the Hartwell campaign website. The 5 sentences or parts of sentences that are similar include information about the candidate's education, some political campaigns that the candidate has worked on and information about the candidate's family.
11. Hartwell's campaign website biography is approximately 7 paragraphs long, consisting of approximately 20 sentences. The information is more extensive and contains more information about Hartwell's professional experience and community involvement along with information about the candidate's education, some political campaigns that the candidate has worked on and information about the candidate's family.
12. The CT Blue 2's endorsement and posting of the endorsement along with some of the candidate's biographical information to their website constitutes an expenditure.
13. Accordingly, a determination next needs to be made as to whether the endorsement was an independent expenditure or a coordinated expenditure.

14. CT Blue 2 maintains that the endorsement which constitutes an expenditure, was made without the consent, knowing participation, or consultation of, John Hartwell or agent of his candidate committee and is not a coordinated expenditure.

15. General Statutes § 9-601 provides in pertinent part:

(18) "*Independent expenditure*" means an expenditure that is made without the consent, knowing participation, or consultation of, a candidate or agent of the candidate committee and is not a coordinated expenditure.

(19) "*Coordinated expenditure*" means an expenditure made by a person:

(A) In cooperation, consultation, in concert with, at the request, suggestion or direction of, or pursuant to a general or particular understanding with (i) a candidate, candidate committee, political committee or party committee, or (ii) a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee;

(B) For the production, dissemination, distribution or publication, in whole or in substantial part, of any broadcast or any written, graphic or other form of political advertising or campaign communication prepared by (i) a candidate, candidate committee, political committee or party committee, or (ii) a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee;

(C) Based on information about a candidate's plans, projects or needs, provided by (i) a candidate, candidate committee, political committee or party committee, or (ii) a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee, with the intent that such expenditure be made;

(D) Who, in the same election cycle, is serving or has served as the campaign chairperson, campaign treasurer or deputy treasurer of a candidate committee, political committee or party committee benefiting from such expenditure, or in any other executive or policymaking position as a member, employee, fundraiser, consultant or other agent of a candidate, candidate committee, political committee or party committee;

(E) For fundraising activities (i) with or for a candidate, candidate committee, political committee or party committee, or a consultant or other agent acting on behalf of a candidate, candidate committee,

political committee or party committee, or (ii) for the solicitation or receipt of contributions on behalf of a candidate, candidate committee, political committee or party committee, or a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee;

(F) Based on information about a candidate's campaign plans, projects or needs, that is directly or indirectly provided by said candidate, the candidate's candidate committee, a political committee or a party committee, or a consultant or other agent acting on behalf of said candidate, candidate committee, political committee or party committee, to the person making the expenditure or said person's agent, with an express or tacit understanding that said person is considering making the expenditure; or

(G) For a communication that clearly identifies a candidate during an election campaign, if the person making the expenditure, or said person's agent, has informed said candidate, the candidate's candidate committee, a political committee or a party committee, or a consultant or other agent acting on behalf of said candidate, candidate committee, political committee or party committee, concerning the communication's contents, intended audience, timing, location or mode or frequency of dissemination.

16. General Statutes § 9-601a provides in pertinent part:

(a) As used in this chapter and sections 9-700 to 9-716, inclusive, "*contribution*" means:

...

(4) *An expenditure when made by a person with the cooperation of, or in consultation with, any candidate, candidate committee or candidate's agent or which is made in concert with, or at the request or suggestion of, any candidate, candidate committee or candidate's agent, including a coordinated expenditure; [Emphasis added.]*

17. General Statutes § 9-601 provides in pertinent part:

(10) "*Person*" means an individual, committee, firm, partnership, organization, association, syndicate, company trust, corporation, limited liability company or any other legal entity of any kind but does not mean the state or any political or administrative subdivision of the state.

...

(27) "*Agent*" means any person acting at the direction of an individual...[Emphasis added.]

18. Applying Gen. Stat. § 9-601(19)(A), the Hartwell Committee treasurer, Joe Scordato, was not aware of the CT Blue 2 endorsement until it was brought to his attention after the complaint had been filed with the Commission and he had received a copy of the complaint. The Hartwell Committee was also not aware of the endorsement that appeared on the CT Blue 2 website. CT Blue 2 made Mr. Hartwell aware of the endorsement after the endorsement had been made and posted to CT Blue 2's website. CT Blue 2 maintains that they did not coordinate with the Hartwell campaign and or their agents and that the expenditure was an independent expenditure.
19. Arguably, the endorsement constitutes an "other form" of political advertising within the meaning of Gen. Stat. § 9-601(19)(B), however, it was not in whole or substantial part prepared by the candidate, the candidate committee or a consultant or other agent acting on behalf of the candidate or the candidate committee. It was however, prepared by a political committee, CT Blue 2.
20. Although it was prepared by CT Blue 2, the endorsement was not based on information about the candidate's plans, projects or needs because the candidate and the candidate committee did not provide any such information, nor did a consultant or other agent acting on behalf of the candidate, or candidate committee, provide any such information, within the meaning of Gen. Stat. § 9-601(19)(C).
21. Furthermore, there is no evidence that in the election cycle in question, that a member of CT Blue 2 served as the campaign chairperson, campaign treasurer or deputy treasurer of the candidate committee benefiting from such expenditure, or in any other executive or policymaking position as a member, employee, fundraiser, consultant or other agent of the candidate or candidate committee, as described in Gen. Stat. § 9-601(19)(D).
22. With respect to General Statutes § 9-601 (19)(E), the subject endorsement does not, on its face, directly solicit contributions, nor does it make reference to fundraising activities of any kind.
23. The endorsement was not based on information about the candidate's campaign plans, projects or needs because the candidate and the candidate committee did not provide any such information directly or indirectly to CT Blue 2, nor did a consultant or other agent acting on behalf of the candidate, or candidate committee, provide any such information, within the meaning of Gen. Stat. § 9-601(19)(F).

24. The CT Blue 2 endorsement was a communication within the meaning of Gen. Stat. § 9-601(19)(G) that clearly identified a candidate during the election campaign, however, the person making the expenditure, CT Blue 2, did not inform said candidate, the candidate's candidate committee, or a consultant or other agent acting on behalf of said candidate, candidate committee, concerning the communication's contents, intended audience, timing, location or mode or frequency of dissemination.
25. Although CT Blue 2 endorsed John Hartwell, the evidence shows there was no cooperation, consultation, or concerted effort with John Hartwell, the Hartwell campaign and or candidate committee, and that the endorsement was not done at the request, suggestion or direction of, or pursuant to a general or particular understanding with John Hartwell, his candidate committee, or a consultant or other agent acting on behalf of John Hartwell, or his candidate committee within the meaning of Gen. Stat. § 9-601(19).
26. The costs associated with the endorsement were less than \$1000, so no independent expenditure reporting requirements were triggered under Gen. Stat. § 9-612(e).
27. The Commission therefore concludes that the CT Blue 2 endorsement of John Hartwell and the subsequent posting of that endorsement along with a link to John Hartwell's campaign website constitutes an independent expenditure as that term is define in Gen. Stat. § 9-601(18) and not a coordinated expenditure as that term is defined in Gen. Stat. § 9-601(19).
28. General Statutes § 9-607 provides in pertinent part:
- (g)(1) As used in this subsection, (A) "the lawful purposes of his committee" means: (i) For a candidate committee or exploratory committee, the promoting of the nomination or election of the candidate who established the committee, except that after a political party nominates candidates for election to the offices of Governor and Lieutenant Governor, whose names shall be so placed on the ballot in the election that an elector will cast a single vote for both candidates, as prescribed in section 9-181, a candidate committee established by either such candidate may also promote the election of the other such candidate; (ii) for a political committee, the promoting of the success or defeat of candidates for nomination and election to public office...*  
[Emphasis added.]
29. The promoting of the success of John Hartwell by CT Blue 2 falls within the lawful purpose of CT Blue 2 pursuant to Gen. Stat. § 9-607(g)(1)(ii).

30. It should be noted that the Complainant alleged that CT Blue 2 was State Representative Bartlett's political committee and that he controlled the political committee. The allegation is irrelevant in the instant case because CT Blue 2 did not make an expenditure on behalf of State Representative Bartlett.
  
31. In light of the fact that the CT Blue 2 endorsement of John Hartwell is an independent expenditure as that term is defined in Gen. Stat. § 9-601(18), the endorsement did not impact John Hartwell, a candidate participating in the Citizens Election Program.



**ORDER**

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

That the matter be dismissed.

Adopted this 23rd day of June 2010 at Hartford, Connecticut

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

Stephen F. Cashman, Chairman  
By Order of the Commission