

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Janet C. Robertson, *et al*, Hampton

File No. 2007-376

FINDINGS AND CONCLUSIONS

Complainants Janet C. Robertson, Gay Wagner, Democrat Registrar of Voters Dayna McDermott and Republican Registrar of Voters Kathi Newcombe and Marti Squires, bring this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Barbara Anderson, of the Town of Hampton, failed to comply with then Connecticut General Statutes, Chapter 150, by her dissemination of campaign materials pertaining to the 2005 municipal election in the Town of Hampton.

After investigation of the complaint, the following Findings and Conclusions are made:

1. Complainants alleged that Ms. Andersen violated Campaign Finance Law pertaining to flyers promoting the 2005 candidacy for Hampton Tax Collector of Marti Squires and promoting the defeat of the incumbent candidate Mary J. Caron for the same office.
2. Complainants allege that Respondent Anderson was responsible for an unattributed flyer that was distributed with campaign materials advocating for Ms. Squires and subject to an investigation by the Commission in the Complaint of Leslie Wertam, Hampton, File No. 2005-330. The subject flyer was disparaging of Mary J. Caron, also known as Judi Caron, who was also a candidate for tax collector at the 2005 Hampton municipal election.
3. In File No. 2005-330 the Commission was unable to definitively determine who had paid for the Caron flyer and closed the file without prejudice. A letter was sent to Ms. Squires advising her of the complete attribution that she should have included on her own campaign materials. This case was filed based on the discovery of new information relating to the flyer that was the subject of the earlier case.
4. Connecticut General Statutes § 9-333d, provides in pertinent part:
 - (a) *Except with respect to an individual acting on his own*, no contributions may be made, solicited or received *and no expenditures may be made, directly or indirectly, in aid of or in opposition to the candidacy for nomination or election of any individual or any party or referendum question, unless (1) the candidate or chairman of the committee has filed a designation of a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds* or (2) the candidate or, in the event of a referendum question, a group of individuals has filed a certification in accordance with the provisions of section 9-333f or 9-333g, as the case may be. In the case of a political committee, the filing of the statement of organization by the chairman of such committee, in accordance with the

provisions of section 9-333g shall constitute compliance with the provisions of this subsection ...

5. Connecticut General Statutes § 9-333w, provides in pertinent part:
 - (a) *No individual shall make or incur any expenditure with the cooperation of, at the request or suggestion of, or in consultation with any candidate,* candidate committee or candidate's agent, and *no candidate or committee shall make or incur any expenditure* for any written, typed or other printed communication, *which promotes the success or defeat of any candidate's campaign for nomination at a primary or election* 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...
6. Michael Chapel was a Town of Hampton Selectman at the time of the 2005 complaint, and hired Ms. Andersen to draft and produce campaign literature for his re-election. Ms. Andersen drafted the flyer about Ms. Caron, a candidate for tax collector in the 2005 municipal election in the Town of Hampton, which Mr. Chapel paid for.
7. The flyer describes litigation and an audit that reflected negatively on Ms. Caron, the incumbent tax collector. However, it never mentions that she is a candidate seeking re-election and never mentions the election.
8. The Commission finds that standing alone, the Caron flyer did not promote the success or defeat of Ms. Caron's campaign.
9. The question remains whether the Caron flyer, which in some instances was reportedly attached to campaign literature of Ms. Squires, an opposing candidate of Ms. Caron, constitutes a "single communication" and therefore triggers the application of Chapter 150 (recodified as Chapter 155) to Mr. Chapel's 2005 expenditure for the production of the Caron flyer.
10. In the case Complaint of James P. McGuire, File No. 97-252, Commission articulated a standard for what constitutes a "single communication." In McGuire the Commission considered a two prong test to determine whether multiple pieces constituted a "single communication" so as to allow an attribution on one piece to apply to the other pieces in the communication. The first is whether the pieces were stapled together. The second was whether the pieces referenced each other and were delivered in the same container. In McGuire, two pieces were sent in the same envelope, unattached, but one piece referenced the other. The pieces were deemed to constitute a single communication.
11. The Commission finds that in some instances the Caron flyer was disseminated with Ms. Squires' campaign literature, but does not reference the other piece and does not otherwise advocate in support of or in opposition to the candidacy for election of any individual. Therefore applying the Commission's standard in McGuire, the Marti

Squires campaign flyer and the Caron flyer are not a "single communication" and therefore must be evaluated separately.

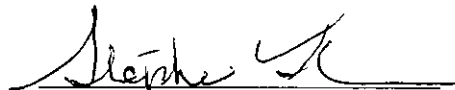
12. Ms. Squires separately paid for the communication advocating her candidacy.
13. The Commission concludes that because the Caron flyer does not promote the success or defeat of a candidate, it was not governed by Connecticut General Statutes §§ 9-333d and 9-333w, at the time of its production and dissemination in 2005. Accordingly, it was not required to contain an attribution, or be paid for by a candidate committee or political or to party committee.

ORDER

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

That the complaint be dismissed.

Adopted this 13th day of Feb. of ~~2008~~ at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission