

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Roger J. Roche, Old Lyme

File No. 2007-390
January 16, 2008

FINDINGS AND CONCLUSIONS

Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Old Lyme First Selectman Timothy C. Griswold violated § 9-610(d)(1) by using public funds less than three months before the November 6, 2007 municipal elections to send out a newsletter to all residents in the town promoting his candidacy for re-election.

1. First Selectman Timothy C. Griswold was a candidate for re-election in the November 6, 2007 municipal election being held in the Town of Old Lyme.
2. In October 2007, Mr. Griswold mailed a newsletter to every Old Lyme resident paid for by the town and using the town's bulk mail permit. The letter was a self-contained mailing piece (i.e., it needed no envelope). The letter addressed the following topics pertaining to the Town of Old Lyme: 1) the launch of the town's new privately-funded magazine/newsletter the "Old Lyme Events" which was replacing the town-funded newsletter, the "Old Lyme Tymes;" 2) use of the town's website; 3) outstanding issues concerning a \$34 million school building plan and the town's efforts to address and remediate fire code violations stemming there from; 4) the town's efforts to transform its landfill into a transfer station and specifically the selectman's office's addressing of delays in that effort; 5) the efforts of the Citizen's Building Committee to research and develop proposals for high school renovations; and 6) the extensive renovation of the Old Lyme Town Hall.
3. Connecticut General Statutes § 9-610(d)(1), provides in pertinent part:
 - (1) No incumbent holding office shall, during the three months preceding an election in which he is a candidate for reelection or election to another office, use public funds to mail or print flyers or other promotional materials intended to bring about his election or reelection.
4. The sole issue in this case is whether or not the use of public funds to create and mail the newsletter in question was intended to bring about Mr. Griswold's re-election as First Selectman in contravention of the statute.
5. The Commission has consistently applied a two-pronged test for determining whether a communication violates Connecticut General Statutes § 9-610(d)(1) (formerly § 9-333l(d)). A communication is deemed to violate § 9-610(d)(1), if it (i) expressly advocates the candidate's reelection or (ii) is so laudatory as to implicitly advocate such reelection.

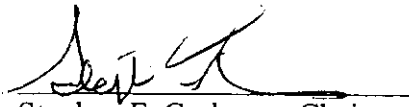
6. The letter in question does not expressly advocate Mr. Griswold's reelection. Therefore, the Commission must determine if the letter is so self-laudatory as to implicitly advocate his reelection. In its determination the Commission considers the consistency of the language of the communication in relationship to its governmental purpose. Such a communication, notwithstanding a principal governmental purpose, will be deemed to violate Connecticut General Statutes § 9-610(d)(1) if it references any of the following:
 - (1) the candidacy or party affiliation of any elected official;
 - (2) the record of any elected official; or
 - (3) a solicitation for contributions or other support for any official's campaign for reelection, or promoting the support of any other candidate, political committee or political party.
7. The letter in question does not reference Mr. Griswold's candidacy or political party, does not solicit contributions to his or any other political campaign, nor does it make irrelevant references to his record. The Commission has previously tolerated relevant record references if the communication does not reference the incumbent's candidacy, party affiliation, or solicit contributions or votes. See In the Matter of a Complaint by Thomas Christiano, File No. 01-196; In the Matter of Ann Piscattano, New Haven, File No. 97-221. A relevant record reference is one announcing or explaining a recent government action of legitimate public importance. An irrelevant record reference is one that touts past accomplishments more remote in time and relevance, and therefore offends the prohibition.
8. After a review of the entire communication in question, no violation of Connecticut General Statutes § 9-610(d)(1) is found.

ORDER

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

That the complaint be dismissed.

Adopted this 16th day of January of 2008 at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission