

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

RECEIVED
STATE ELECTIONS

In the Matter of a Complaint by
Matthew Paulsen, Bethel

File No. 2002-157

AUG 26 2002

ENFORCEMENT
COMMISSION

AGREEMENT CONTAINING CONSENT ORDER
FOR A VIOLATION OF §9-369b, GENERAL STATUTES

This agreement by and between Alan Chmiel (hereinafter referred to as Respondent) and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Respondent Alan Chmiel is the Principal of Bethel High School.
2. The Town of Bethel held its first referendum on the fiscal year 2002-03 Town and School Budget May 14, 2002, which was defeated. Subsequent referenda were held on May 29 and June 11.
3. Prior to the May 29 referendum, Respondent posted text pertaining to the referendum budget vote on the following web link, <http://www.bethel.k12.ct.us/bhs/h1.htm>, which is owned by the Town of Bethel Board of Education. Specifically, the text states in part **"If this Budget fails there are plans to reduce the Budget by \$500,000.00 to \$800,000.00. To say the least this would be a devastating blow to the school district. With a cut this large we would be looking at staff and program eliminations and reductions. If these cuts were to affect areas that removed us from accreditation warning in 2000, we would be placed on warning status again by NEASC. This information is from a phone conversation I had with Ms. Pamela Gray-Bennett, Executive Director of the NEASC on Friday, May 17, 2002."**
4. Connecticut General Statutes §9-369b provides in pertinent part:
 - (a) Any municipality may, by vote of its legislative body, authorize the preparation and printing of concise explanatory texts of local proposals or questions approved for submission to the electors of a municipality at a referendum. Thereafter, each such explanatory text shall be prepared by the municipal clerk, subject to the approval of the municipal attorney, and shall specify the intent and purpose of each such proposal or question. Such text shall not advocate either the approval or disapproval of the proposal or question. The municipal clerk shall cause such question or proposal and such explanatory text to be printed in sufficient supply for public distribution and shall also provide for the printing of such explanations of proposals or questions on posters of a size to be determined by said clerk. At least three such posters shall be

posted at each polling place at which electors will be voting on such proposals or questions. Any posters printed in excess of the number required by this section to be posted may be displayed by said clerk at his discretion at locations which are frequented by the public. The explanatory text shall also be furnished to each absentee ballot applicant pursuant to subsection (d) of section 9-140. Except as provided in subsection (c) of this section, **no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question.** Any municipality may, by vote of its legislative body and subject to the approval of its municipal attorney, authorize the preparation and printing of materials concerning any such proposal or question in addition to the explanatory text if such materials do not advocate the approval or disapproval of the proposal or question. This subsection shall not apply to a written, printed or typed summary of an official's views on a proposal or question, which is prepared for any news medium or which is not distributed with public funds to a member of the public except upon request of such member. (emphasis added)

5. The Commission has consistently concluded that communications that recommend or urge support of, or opposition to, a referendum question, are subject to the restrictions found in §9-369b. In its determination of whether a publicly funded communication advocates the approval or disapproval of a referendum, the Commission has consistently considered the communication as a whole, its content, style, tenor and timing. Sweetman v. State Elections Enforcement Commission, 249 Conn. 296 (1999).
6. The prohibition on the use of municipal funds applies to the use of school facilities, supplies and equipment to advocate a position on a referendum. (citations omitted)
7. It is concluded that by his insertion of the message as referred to in paragraph 3, Respondent caused an expenditure of municipal, albeit small, for a communication that advocates a position on the referendum.
8. It is concluded that Respondent violated §9-369b, General Statutes, by his actions.
9. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
10. The Respondent waives:
 - (a) Any further procedural steps;
 - (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this agreement.

11. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him pertaining to this matter.

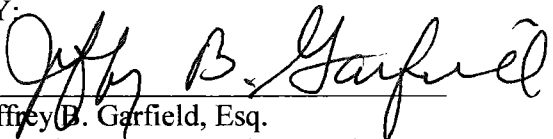
ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with the requirements of Connecticut General Statutes §9-369b, and shall ensure that no expenditure of municipal funds shall be made to influence any person to vote for approval or disapproval of a referendum question.

Dated: 8/27/02

For the State Elections Enforcement Commission:

BY:



Jeffrey B. Garfield, Esq.
Executive Director and General
Counsel and Authorized
Representative of the State Elections
Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: 8-22-02


For the Respondent:

BY:



Alan Chmiel

Adopted this 21st day of August 2002 at Hartford, Connecticut.



Albert Rogers, Chairman
By Order of the Commission

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Matthew Paulsen, Bethel

File No. 2002-157

AGREEMENT CONTAINING CONSENT ORDER
FOR A VIOLATION OF §9-369b, GENERAL STATUTES

This agreement by and between Patricia Cosentino (hereinafter referred to as Respondent) and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Respondent Patricia Cosentino is the Principal of F.A. Berry Elementary School in Bethel.
2. The Town of Bethel held its first referendum on the fiscal year 2002-03 Town and School Budget May 14, 2002. Subsequent referenda were held on May 29 and June 11. For purposes of §9-369b General Statutes, the May 14 referendum was pending on May 6.
3. "Dandy Lines" is the F.A. Berry Elementary School weekly newsletter. Approximately four hundred and seventy (470) copies are made and distributed at school to students, teachers and administrators.
4. On or before May 17th, "Dandy Lines," was distributed through schoolchildren at the F.A. Berry Elementary School. The newsletter had a section addressed to parents from the Respondent, which included the following statement, "Please support our children and our schools. I urge you to make sure you get out and vote." The section also references the town budget defeated on May 14 and is clearly a reference to the May 29 referendum.
5. Connecticut General Statutes §9-369b provides in pertinent part:
 - (a) Any municipality may, *by* vote of its legislative body, authorize the preparation and printing of concise explanatory texts of local proposals or questions approved for submission to the electors of a municipality at a referendum. Thereafter, each such explanatory text shall be prepared by the municipal clerk, subject to the approval of the municipal attorney, and shall specify the intent and purpose of each such proposal or question. Such text shall not advocate either the approval or disapproval of the proposal or question. The municipal clerk shall cause such question or proposal and such explanatory text to be printed in sufficient supply for public distribution and shall also provide for the printing of such explanations of proposals or questions on posters of a size to be determined by said clerk. At least three such posters shall be posted

at each polling place at which electors will be voting on such proposals or questions. Any posters printed in excess of the number required by this section to be posted may be displayed by said clerk at his discretion at locations which are frequented by the public. The explanatory text shall also be furnished to each absentee ballot applicant pursuant to subsection (d) of section 9-140. Except as provided in subsection (c) of this section, **no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question.** Any municipality may, by vote of its legislative body and subject to the approval of its municipal attorney, authorize the preparation and printing of materials concerning any such proposal or question in addition to the explanatory text if such materials do not advocate the approval or disapproval of the proposal or question. This subsection shall not apply to a written, printed or typed summary of an official's views on a proposal or question, which is prepared for any news medium or which is not distributed with public funds to a member of the public except upon request of such member. (emphasis added)

6. The Commission has consistently concluded that communications that recommend or urge support of, or opposition to, a referendum question, are subject to the restrictions found in §9-369b. In its determination of whether a publicly funded communication advocates the approval or disapproval of a referendum, the Commission has consistently considered the communication as a whole, its content, style, tenor and timing. Sweetman v. State Elections Enforcement Commission, 249 Conn. 296 (1999).
7. The prohibition on the use of municipal funds applies to the use of school facilities, supplies and equipment to advocate a position on a referendum, and the use of school children as couriers to disseminate materials that so advocate a position on a referendum. (citations omitted)
8. The Commission has applied §9-369b to allow notices to be sent home to parents via children in school, as long as they are limited to the time, date, place and the subject matter of the referendum question to be voted on.
9. It is concluded that by her insertion of the message as referred to in paragraph 4, Respondent caused municipal funds to be expended for a communication that advocates a position on the referendum.
10. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.

11. The Respondent waives:

- (a) Any further procedural steps;
- (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
- (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this agreement.

12. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with the requirements of Connecticut General Statutes §9-369b, and shall ensure that no expenditure of municipal funds shall be made to influence any person to vote for approval or disapproval of a referendum question and that school children shall not be used as couriers for material advocating a position on a referendum.

For the State Elections Enforcement
Commission:

Dated: 8/19/02

BY: 

Jeffrey B. Garfield, Esq.
Executive Director and General
Counsel and Authorized Representative
of the State Elections Enforcement
Commission
20 Trinity Street, Suite 101
Hartford, Connecticut


Dated: 8/8/02

For the Respondent:

BY: 

Patricia Cosentino

Adopted this 21st day of August 2002 at Hartford, Connecticut.


Albert Rogers, Chairman
By Order of the Commission

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Matthew Paulsen, Bethel

File No. 2002-157

AGREEMENT CONTAINING CONSENT ORDER
FOR A VIOLATION OF §9-369b, GENERAL STATUTES

This agreement by and between Judith Novachek, First Selectman and Gary Chesley, Superintendent of Schools (hereinafter referred to as the Respondents) and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. The Respondent Judith Novachek is the Town of Bethel First Selectman and Gary Chesley is the Town of Bethel Superintendent of Schools.
2. The Town of Bethel held its first referendum on the fiscal year 2002-03 Town and School Budget May 14, 2002. Subsequent referenda were held on May 29 and June 11. For purposes of §9-369b General Statutes, the May 14 referendum was pending on May 6.
3. Bethel municipal funds, in particular Board of Education funds were used to produce and distribute a newsletter entitled "Budget Report 2002-2003 # 2" to all local postal patrons on May 10, 2002. The Board of Education portion of "Budget Report 2002-2003 # 2" contains the following: "Our most important product is opportunity for our children," "Here are the numbers that your support has created," and "Our primary purpose is to improve student achievement." The "Budget Report" goes on to list statistics pertaining to enrollment, graduation rates, scholarships and other items related to education.
4. The Board of Selectmen portion of "Budget Report 2002-2003 # 2" contains the following: "The budget is the product of detailed work on the part of our department heads, thoughtful review by elected boards, and finally a consensus to do what is right for the Town" and "The budget before the voters at referendum is the product of bi-partisan and unanimous support from the Selectmen and the Board of Finance."
5. The Respondents accept responsibility for the production and distribution of "Budget Report 2002-2003 # 2."
6. Municipal funds in the amount of one thousand and sixty-six dollars and forty-eight cents (\$1, 066.48) were expended for the purpose of mailing and producing "Budget Report 2002-2003 # 2" referred to in paragraphs three and four.

7. Connecticut General Statutes §9-369b provides in pertinent part:

(a) Any municipality may, *by* vote of its legislative body, authorize the preparation and printing of concise explanatory texts of local proposals or questions approved for submission to the electors of a municipality at a referendum. Thereafter, each such explanatory text shall be prepared by the municipal clerk, subject to the approval of the municipal attorney, and shall specify the intent and purpose of each such proposal or question. Such text shall not advocate either the approval or disapproval of the proposal or question. The municipal clerk shall cause such question or proposal and such explanatory text to be printed in sufficient supply for public distribution and shall also provide for the printing of such explanations of proposals or questions on posters of a size to be determined by said clerk. At least three such posters shall be posted at each polling place at which electors will be voting on such proposals or questions. Any posters printed in excess of the number required by this section to be posted may be displayed by said clerk at his discretion at locations which are frequented by the public. The explanatory text shall also be furnished to each absentee ballot applicant pursuant to subsection (d) of section 9-140. Except as provided in subsection (c) of this section, **no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question.** Any municipality may, by vote of its legislative body and subject to the approval of its municipal attorney, authorize the preparation and printing of materials concerning any such proposal or question in addition to the explanatory text if such materials do not advocate the approval or disapproval of the proposal or question. This subsection shall not apply to a written, printed or typed summary of an official's views on a proposal or question, which is prepared for any news medium or which is not distributed with public funds to a member of the public except upon request of such member. (emphasis added)

8. The Commission has consistently concluded that communications that recommend or urge support of, or opposition to, a referendum question, are subject to the restrictions found in §9-369b. In its determination of whether a publicly funded communication advocates the approval or disapproval of a referendum, the Commission has consistently considered the communication as a whole, its content, style, tenor and timing. Sweetman v. State Elections Enforcement Commission, 249 Conn. 296 (1999).
9. Accordingly, it is found that “Budget Report 2002-2003 # 2” does advocate the approval of the budget referendum.
10. By authorizing the expenditure of municipal funds to individually and collectively prepare, reproduce and distribute “Budget Report 2002-2003 # 2” that implicitly advocated support for the upcoming May 14, 2002 referendum, the Respondents violated §9-369b.

11. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used as an admission in any subsequent hearing, if the same becomes necessary.
12. The Respondents waive:
 - (a) Any further procedural steps;0
 - (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this agreement.
13. Upon the Respondents' compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against them pertaining to this matter.

ORDER

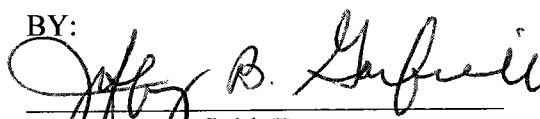
IT IS HEREBY ORDERED that each Respondent shall pay five hundred and thirty-three dollars and twenty-four cents (\$533.24) to the Town of Bethel and shall provide evidence of the payment thereof to the State Elections Enforcement Commission on or before August 13, 2002.

IT IS FURTHER ORDERED that each Respondent shall strictly comply with §9-369b, General Statutes.

For the State Elections Enforcement
Commission:

Dated: 8/14/02

BY:

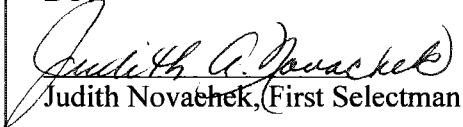


Jeffrey B. Garfield, Esq.
Executive Director and General
Counsel and Authorized Representative
of the State Elections Enforcement
Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: August 12, 2002

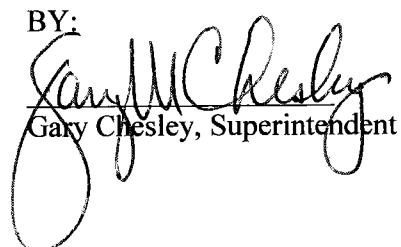
For the Respondents:

BY:



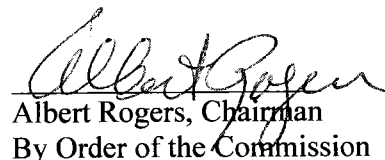
Judith Novaehck, (First Selectman)

BY:



Gary Chesley, Superintendent

Adopted this 21st day of August 2002 at Hartford, Connecticut.



Albert Rogers, Chairman
By Order of the Commission