

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Amy Primorac, Monroe

File No. 2009-064

FINDINGS AND CONCLUSIONS

Complainant Amy Primorac brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that a group called "Concerned Citizens of Monroe" sponsored advertisements advocating for the defeat of referenda questions posed in April and May of 2009 in the Town of Monroe, failed to register its campaign activity with the Town Clerk of Monroe, and failed to include a proper attribution on said advertisements. After the investigation, the Commission makes the following findings and conclusions:

1. Three referenda were held in Monroe regarding the 2009-10 budget. The first and second budgets were defeated at referenda held on April 7th and 28th respectively. The third budget passed after a mandatory recanvass of a close vote at a referendum held on May 12th.
2. Two advertisements were published in the April 16 and April 23 editions of the Monroe Courier, a local newspaper, each of which advocated for the defeat of the second referendum and each of which contained no indication as to what group or individual sponsored the advertisement.
3. Two advertisements were published in the May 7 edition of the Monroe Courier, each of which advocated for the defeat of the third referendum and each of which contained an attribution stating "Paid for by the Concerned Citizens of Monroe."
4. A fifth advertisement was published in the May 21 edition of the Monroe Courier which contained an attribution stating "Paid for by the Concerned Citizens of Monroe," but which contained no advocacy.
5. The five advertisements cost \$151.20, \$50.40, \$189, \$63, and \$264.60, respectively, and were paid for by Tess Foley.
6. General Statutes § 9-602 (a) 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 9-604 or 9-605, as the case may be. . . . [Emphasis added.]

7. General Statutes § 9-605 provides, in pertinent part:

(a) The chairperson of each political committee shall designate a campaign treasurer and may designate a deputy campaign treasurer. The campaign treasurer and any deputy campaign treasurer so designated shall sign a statement accepting the designation. The chairperson of each political committee shall file a statement of organization along with the statement signed by the designated campaign treasurer and deputy campaign treasurer with the proper authority, within ten days after its organization, provided that the chairperson of any political committee organized within ten days prior to any primary, election or referendum in connection with which it intends to make any contributions or expenditures, shall immediately file a statement.

...

(d) A group of two or more individuals who have joined solely to promote the success or defeat of a referendum question shall not be required to file as a political committee, make such designations in accordance with subsections (a) and (b) of this section or file statements pursuant to section 9-608, if the group does not receive or expend in excess of one thousand dollars for the entire campaign and the agent of such individuals files a certification with the proper authority or authorities as required under section 9-603 before an expenditure is made. . . .

[Emphasis added.]

8. General Statutes § 9-612 (d) provides, in pertinent part:

...

(d) Any *individual may make unlimited contributions or expenditures to aid or promote the success or defeat of any referendum question*, provided any individual who makes an expenditure or expenditures *in excess of one thousand dollars* to promote the success or defeat of any referendum question shall file statements according to the same schedule and in the same manner as is required of a campaign treasurer of a political committee under section 9-608. [Emphasis added.]

9. There is no group known as "Concerned Citizens of Monroe." The name was created by the Respondent, an individual, because staff at the Monroe Courier thought that the attributions were legally required and asked her to include them on those advertisements that appeared in the May 7 and 12 editions of the newspaper.

10. The Respondent made the above expenditures independently and out of her own personal funds. As such, the Commission finds that since the expenditures made by Tess Foley for the advertisements identified in paragraphs two and three, above, did not exceed the \$1,000 threshold for individual expenditure referendum reporting, she was not required to file a statement of her expenditures with the Town Clerk.

11. In that regard, General Statutes § 9-621 (c) provides, in pertinent part:

(c) No business entity, organization, association, committee, or group of two or more individuals who have joined solely to promote the success or defeat of a referendum question and is required to file a certification in accordance with subsection (d) of section 9-605, shall make or incur any expenditure for any written, typed or other printed communication which promotes the success or defeat of any referendum question unless such communication bears upon its face the words "paid for by" and the following: (1) In the case of a business entity, organization or association, the name of the entity, organization or association and the name of its chief executive officer; (2) in the case of a political committee, the name of the committee and the name of its campaign treasurer; (3) in the case of a party committee, the name of the committee; or (4) in the case of such a group of two or more individuals, the name of the group as it appears on the certification filed in accordance with subsection (d) of section 9-605, and the name and address of its agent. [Emphasis added.]

12. General Statutes § 9-621 (c) (previously § 9-333w (b)) was amended by P.A. 95-276 to comply with the Supreme Court decision in *McIntyre v. Ohio Elections Commission*, 541 U.S. 334 (1995), by removing an individual acting alone to influence a referendum from the requirements of the statute. *See also, Complaint by Sarah Becker, Old Saybrook*, SEEC File No. 2001-191; *Complaint by Mark Favrow, Lebanon*, SEEC File No. 1999-236.

13. Since the Respondent was acting alone and spent only her own personal funds on the advertisements in question, the Commission finds that she was not required to include an attribution on the advertisements.

14. Nevertheless, the use of the name of a fictitious group certainly led to the filing of this complaint alleging facts, which if proven true, would have constituted a violation of election law. The Commission can only surmise that if an accurate attribution had been included, a complaint and investigation would not have been required to ascertain the truth that the advertisement was funded by a permissible source, an individual acting alone.

ORDER

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

That the Complaint be dismissed.

Adopted this 18th day of November of 2009 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission