

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Ellen Camhi, Stamford

File No. 2009-110

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b and alleges that a candidate committee "Pavia 2009" that was established by Michael Pavia received an impermissible business entity contribution from T.A. Brigante, P.E.A. and Associates, LLC in violation of General Statutes § 9-613. Specifically, the Complainant alleges that that committee received an in-kind contribution from that entity when it provided to the committee a free report concerning the Scofieldtown Road Aquifer contamination.

After an investigation of the complaint, the Commission makes the following findings and conclusions:

1. On April 12, 2009, Michael Pavia formed a candidate committee ("Pavia 2009") with the Stamford Town Clerk by filing a Registration by Candidate (SEEC Forms 1 & 1A). In that registration, he indicated that he was seeking the office of Mayor of Stamford and designated Michael Totilo as treasurer.
2. In 2009, a public hearing was held in Stamford concerning water contamination in the Scofield section of North Stamford. Mr. Pavia and Mr. Brigante were both in attendance at that hearing.
3. According to Mr. Brigante, he attended that hearing because the water contamination site had become a Superfund site and he was extremely interested in that issue as he had devoted his professional life to such work. Mr. Brigante's employment history supports his assertion.
4. Mr. Brigante also asserts that at some point during that hearing he approached members of the City's administration to see if he could provide free consultation services. He maintains that the director of Stamford's Health Department was at the meeting and was very interested in Mr. Brigante's services although nothing ever came of it. Mr. Brigante further stated that he spoke with Stamford's then Director of Public Works about providing his services to the City but the Director was overwhelmed and did not have time to talk to Mr. Brigante at that hearing.
5. Mr. Brigante asserts that he was also informed that Mr. Pavia was at the hearing and that he should speak with Mr. Pavia. He further asserts that he told Mr. Pavia that he had a standard protocol for handling the water contamination issue (something he maintains he has provided to state governments, the federal government, and fortune 500 companies) and asked Mr. Pavia whether a report concerning that issue would help the City of Stamford. He claims Mr. Pavia answered in the affirmative.
6. Mr. Brigante claims that he did not intend to provide the report to Mr. Pavia to help him achieve the office of Mayor of Stamford. He said he would have prepared and provided that report to anyone who requested it, including the administration in power

at the time. He claims that he just wanted to help resolve the problem the City was facing. He further stated that he "was trying to help the residents of Stamford not Mike Pavia."

7. Mr. Brigante also repeatedly stated that he was not trying to help Mr. Pavia's campaign. He added that he does not have a vested interest in Stamford politics as he is no longer a resident there. He maintains that he was only attracted to the water contamination issue because it peaked his professional interests.
8. The Commission has not been provided with any evidence that contradicts Mr. Brigante's representations.
9. On October 1, 2009, Pavia 2009 issued a press release entitled "Results in on Pavia-Commissioned Report on Scofield Water Contamination." That press release also contains the following statements:

"When the news of the contamination was released, Pavia commissioned a (pro-bono) team of well-regarded environmental experts to produce a report that provides the residents of Stamford with clarity, insight and a solution to their water contamination. . . .

* * *

"The experts contribution to Pavia's report, Scofieldtown Road Aquifer Contamination – Information and General Reference prepared for Michael Pavia, were led by Thomas Brigante, Principal Environmental Analyst, founder, T.A. Brigante and Associates, L.L.C., founder and CEO of New England Pollution Control Company, Inc., of Easton, Conn.

"Brigante's report examines"

10. Attached to that press release was a report with the following information on the cover page:

"Scofieldtown Road Aquifer Contamination

INFORMATION SUMMARY
And
GENERAL REFERENCE GUIDE

Prepared for: Michael Pavia
September 24, 2009

Prepared by T.A. Brigante, P.E.A., and Associates, LLC
-A BUSINESS UNIT OF THE ORION COMPANIES-
ORION

Orion Earth Services Corp

11. That report also stated that a panel of professionals represented the sources of the material presented in the report.
12. The Complainant alleges that "Pavia 2009" that was established by Michael Pavia received an impermissible business entity contribution from T.A. Brigante P.E.A., and Associates, LLC in violation of General Statutes § 9-613. Specifically, she alleges that that committee received an in-kind contribution from that entity when it provided to the committee a free report concerning the Scofieldtown Road Aquifer contamination.
13. General Statutes § 9-601 (8) defines "business entity" in pertinent part as follows:

"Business entity" means the following, whether organized in or outside of this state: Stock corporations . . . corporations organized under sections 38a-175 to 38a-192, inclusive, 38a-199 to 38a-209, inclusive, and 38a-214 to 38a-225, inclusive, and chapters 594 to 597, inclusive . . . cooperatives, and any other association, organization or entity which is engaged in the operation of a business or profit-making activity; but does not include professional service corporations organized under chapter 594a and owned by a single individual, nonstock corporations which are not engaged in business or profit-making activity, organizations, as defined in subdivision (6) of this section, candidate committees, party committees and political committees as defined in this section. For purposes of this chapter, corporations which are component members of a controlled group of corporations, as those terms are defined in Section 1563 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, shall be deemed to be one corporation. [Emphasis added.]

14. General Statutes § 9-613 (a) provides as follows in relevant part:

No business entity shall make any contributions or expenditures to, or for the benefit of, any candidate's campaign for election to any public office or position subject to this chapter . . . or to promote the defeat of any candidate for any such office or position. . . .

15. General Statutes § 9-622 provides in pertinent part:

The following persons shall be guilty of illegal practices and shall be punished in accordance with the provisions of section 9-623:

(10) Any person who solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter

16. In light of the aforementioned statutes, the Commission must determine whether 1) the report was prepared by a business entity; 2) if so, whether that report constituted a contribution to Pavia 2009; or 3) if not, whether the services provided by Mr. Brigante constituted a contribution to Pavia 2009; and 4) if so,

whether the value of that contribution exceeded the applicable contribution limit.

17. With respect to the first question, the Commission was not provided with any evidence that establishes that T.A. Brigante, P.E.A. and Associates, LLC was a "business entity" as defined in General Statutes § 9-601 (8) or registered in Connecticut or elsewhere as a legal entity of any kind.
18. There is, however, sufficient evidence to establish that Orion Earth Services Corp. fell within the definition of "business entity" and the report prepared by Mr. Brigante identifies T.A. Brigante, P.E.A. and Associates, LLC as "a business unit of the Orion Companies."
19. A thorough investigation of this matter has not revealed any additional evidence in this case. As such, at this time, the evidence concerning the status of Orion Earth Services Corp., along with the report at issue, is all that the Commission has to consider in assessing whether the evidence is sufficient to establish that the report at issue was prepared or distributed to Pavia 2009 using assets of T.A. Brigante, P.E.A. and Associates, LLC or Orion Earth Services Corp. While the report does expressly state as much, Mr. Brigante and Pavia 2009 have repeatedly maintained that the report was prepared by Mr. Brigante on his personal time using his personal resources.
20. The Commission therefore concludes that the investigation of this matter has not revealed adequate evidence to establish that an impermissible business entity contribution was made to or received by Pavia 2009.

ORDER

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

That the matter be dismissed without prejudice.

Adopted this 17th day of November, 2010 at Hartford, Connecticut.



Stephen F. Cashman, Chairperson
By Order of the Commission