

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Francis A. Teodosio, Seymour

File No. 2009-117

FINDINGS AND CONCLUSIONS

Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b, alleging that the group "Keep Oxford Green" (hereinafter "KOG") failed to comply with campaign finance law pertaining to their designation as a referendum committee; their receipt of a certain cash contribution; and their support of certain candidates and a political party.

After investigation, the Commission makes the following findings and conclusions:

1. Respondent Edward L. Carver, Jr. is the chairperson of KOG and his spouse Respondent Tanya G. Carver is the treasurer of KOG, and were so at all times relevant to this complaint and investigation.
2. Respondent James L. Hard, as an individual, supported KOG through monetary contributions. Respondent Hard was reported on KOG campaign finance statements as making contributions totaling \$750 in cash in the aggregate.
3. Complainant, at the time of this complaint, was Town Counsel, Town of Oxford, and alleged that Respondents violated campaign finance law in that:
 - (1) That Respondents E. Carver and T. Carver, on or about August 2, 2009, registered an ongoing political committee with the Oxford Town Clerk's office, and designated themselves a referendum committee for the November 3, 2009 election, even though no such referendum was scheduled in violation of General Statutes § 9-602 and § 9-605;
 - (2) That the financial statements for KOG on file with the Oxford Town Clerk's office disclose excessive aggregate cash contributions from Respondent Hard which exceed the \$100.00 limit in cash contributions as provided by General Statutes § 9-611 and § 9-622 (9); and,
 - (3) That KOG, as a registered referendum committee, made expenditures to support certain candidates and a specific party, which were prohibited by § 9-620 (a).

4. On August 3, 2009, a *Political Committee (PAC) Registration* (SEEC Form 3) in the name of “Keep Oxford Green,” and with the acronym registered as “KOG,” was filed with the Oxford Town Clerk’s Office. The aforementioned form designated Respondent E. Carver as chairperson and Respondent T. Carver as treasurer. The “Registration Type” of this form was marked “initial.”
5. On the SEEC Form 3 (hereinafter “Initial Form 3”) described in paragraph 4 above, data field 24a (“Committee Subtype”) designated KOG as a committee of “Two or More Individuals.” Further, at data field number 25b of Initial Form 3, the committee was designated as “Durational” and formed for the “Single Election Date” of November 3, 2009. Initial Form 3 indicated at data field number 26 that the referendum question subject matter for which KOG was organized was “Low income – dense population housing.” Finally, Initial Form 3 was signed by Respondent E. Carver and Respondent T. Carver.
6. On October 29, 2009 Respondent T. Carver, as KOG treasurer, filed a second SEEC Form 3 (hereinafter “Amended Form 3”) in the name of “Keep Oxford Green” with the Oxford Town Clerk’s Office. The aforementioned form “Registration Type” indicated that it was “Amended.”
7. On Amended Form 3 described in paragraph 6 above, data field number 24a (“Committee Subtype”) designated KOG as a committee of “Two or More Individuals.” Data field number 25a designated the committee as “Ongoing” and formed for “Municipal Elections Only.” Data field number 26 of Amended Form 3 left blank the “subject matter” of the referendum. Amended Form 3 was signed by Respondent T. Carver only.
8. General Statutes § 9-602 provides in pertinent part:
 - (a) Except with respect to an individual acting alone, or with respect to a group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate, ***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 has filed a certification in accordance with the provisions of section 9-604. 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 9-605, shall constitute compliance with the provisions of this subsection.
[Emphasis added.]

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

...
(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. If the group receives funds or makes or incurs expenditures exceeding one thousand dollars in the aggregate, the group shall complete the statement of organization and file as a political committee not later than three business days thereafter. The group shall provide the designated campaign treasurer with all information required for completion of the statements for filing as required by section 9-608.

10. Respondent E. Carver asserts that sometime in August 2009 he and a group of individuals circulated a petition for signatures to recommend to the Oxford First Selectman that a referendum be held pertaining to the development of low-income, high-density housing in the Town of Oxford. Further, Respondent E. Carver asserts that at about that time he registered KOG as a durational committee to support a November 3, 2009 referendum. Finally, Respondent asserts that he believed that they would be successful in putting the issue of the aforementioned housing development to referendum, and therefore it would appear on the ballot at the November 3rd election in the Town of Oxford. The Commission finds no evidence contrary to these assertions and beliefs.
11. The Commission finds that Respondent T. Carver filed an *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20) for KOG for the October 10, 2009 filing date with the Oxford Town Clerk's office. The Commission further finds that this quarterly campaign finance statement was the first statement required for committees registered after June 30, 2009 such as KOG. Further, the Commission finds that KOG's October 10th filing disclosed monetary contributions in the amount of \$1,084.52, expenditures in the amount of \$840.00, and an in-kind contribution in the amount of \$17.86.
12. The Commission concludes that consistent with its decision in *Complaint by Jennifer Ianucci*, Bridgewater, File No. 2008-005, and pursuant to General Statutes § 9-605 (d) it was permissible for Respondent E. Carver and Respondent T. Carver to register KOG as a durational referendum committee even though no such referendum had been called at the time of its registration. *Complaint by Jennifer Ianucci*, Bridgewater, File No. 2008-005. Furthermore, the Commission concludes that there is nothing in either General Statutes §§ 9-602 or 9-605 that prevented Respondent E. Carver and Respondent T. Carver from doing so in this instance or required them to register as an ongoing political committee at the time they filed Initial Form 3. See *Id.*

13. The Commission dismisses the allegation pertaining to the registration of KOG as a durational referendum committee for the reasons detailed in paragraph 12 above.
14. The Commission now turns to the allegation regarding KOG's disclosure in its campaign finance statements of excessive aggregate cash contributions from Respondent Hard, which exceeds the \$100 limit in cash contributions as provided by *General Statutes* §§ 9-611 and 9-622 (9).

15. General Statutes § 9-611 provides in pertinent part:

...

(d) *No individual shall make a contribution to any candidate or committee, other than a contribution in kind, in excess of one hundred dollars except by personal check or credit card of that individual.*
[Emphasis added.]

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

...

The following persons shall be guilty of illegal practices...

(9) Any person who *offers or receives a cash contribution in excess of one hundred dollars* to promote the success or defeat of any political party, candidate or referendum question; ...
[Emphasis added.]

17. The Commission finds that Respondent Hard contributed in the aggregate \$500 *in cash* as of September 27, 2009, which was reported in KOG's October 10, 2009 quarterly campaign finance statement. The Commission finds that, additionally, Respondent Hard contributed on October 17, 2009 another \$250 *in cash*, which was reported on KOG's SEEC Form 20 filed on the 7th day preceding the November 3, 2009 election. The Commission finds therefore that Respondent Hard contributed a total of \$750 in cash to KOG.

18. According to General Statutes § 9-611 (d), the maximum allowable cash contribution by an individual to a political committee is \$100 per calendar year. Consistent with this, General Statutes § 9-622 (9) limits to \$100 the amount of cash that a treasurer can receive from an individual contributor.

19. The Commission finds that the SEEC Form 20 filed by KOG for the 7th day preceding the November 3, 2009 election disclosed a \$650.00 reimbursement on October 27, 2009 to Respondent Hard, which was described as a "refund for excess cash contributions." This reimbursement may have been the result of a conversation between Respondent E. Carver and Commission staff.

20. The Commission notes that the complaint in this matter was dated October 28, 2009, and filed with the Commission on October 29, 2009, or two days *after* the aforementioned reimbursement to Respondent Hard for excess aggregate cash contributions was made.
21. The Commission concludes that the error by Respondent T. Carver of accepting the excessive aggregate cash contributions from Respondent Hard was cured by the reimbursement detailed in paragraph 20 above and made *prior* to the complaint being filed, and *after* Respondent E. Carver sought and received advice from Commission staff as referenced in paragraph 19 above.
22. Consequently, the Commission concludes, consistent with its decision *Complaint by Terry Lewis*, Hartford, File No. 98-222, that because the voluntary compliance effected by the aforementioned reimbursement was *prior* to the filing of this complaint, the Commission will take no further action with respect to Respondent E. Carver and T. Carver and this allegation. *Complaint by Terry Lewis*, Hartford, File No. 98-222.
23. The Commission, due to the timing of the reimbursement as detailed in paragraphs 20 through 22 above, and a credible claim by Respondent Hard that he acted in good faith, will take no further action pertaining to Respondent Hard's excessive cash contributions under these specific circumstances.
24. Turning to the Complainant's allegations pertaining to KOG's promotion of candidates and a political party, the Commission notes that where a group of two or more individuals has joined solely to promote the success or defeat of a referendum question, that group pursuant to General Statutes § 9-620 may *only* make expenditures to that end.
25. General Statutes § 9-620 provides in pertinent part:
 - (a) A political committee formed solely to aid or promote the success or defeat of a referendum question ***shall not make contributions to, or for the benefit of, a party committee***, a political committee, a national committee, a committee of a candidate for federal or out-of-state office ***or a candidate committee***, except in the distribution of a surplus, as provided in subsection (e) of section 9-608.
[Emphasis added.]

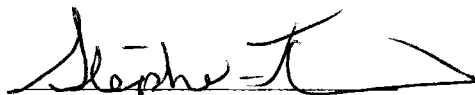
26. All three Respondents deny that KOG supported or promoted any one political party or any candidates for office. The Commission finds that while the Complainant produced evidence that KOG disseminated a mailing that contained excerpts from the minutes of a town council meeting, and evidence that KOG disseminated invitations to a fundraising picnic, no evidence of KOG advocating for or against a referendum, candidate or party was provided.
27. Consistent with the findings in paragraph 27 above, the Commission, upon investigation, found evidence that KOG promoted or supported a referendum while it was registered as a durational referendum committee between August 2, 2009 and October 29, 2009 to be lacking.
28. Furthermore, upon review of KOG's SEEC Form 20s for the aforementioned relevant time period, as detailed in paragraphs 11, 18 and 20 above, the Commission finds that KOG disclosed no receipts, expenditures or other financial transactions between itself and any other committee, be it a candidate or party committee.
29. Based on information provided within the complaint and by Respondents, as well as on KOG's campaign finance activity and supporting documentation that are detailed in paragraphs 27, 28 and 29 above, the Commission dismisses the allegation that KOG supported and promoted candidates for office or a political party while registered as a durational referendum committee.
30. The Commission underscores the fact that based upon Commission advice, as detailed herein, KOG filed an Amended Form 3 on October 29, 2009 so that it could participate in municipal elections on a continuous basis, both supporting municipal candidates and political parties, and choosing a position and advocating for referenda.
31. In light of the facts and circumstances of this case as detailed above, the Commission concludes that allegations of violations of General Statutes § 9-602, § 9-605, and § 9-620 are not supported by the evidence, and that any violation of General Statutes § 9-611 and § 9-622 was sufficiently mitigated and remedied to warrant no further action. The Commission therefore dismisses this complaint with no further action.

ORDER

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

That the Complaint be dismissed.

Adopted this 13th day of April of 2011 at Hartford, Connecticut

A handwritten signature in black ink, appearing to read "Stephen F. Cashman", with a long horizontal flourish extending to the right.

Stephen F. Cashman, Chairman
By Order of the Commission