

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint by Henry Karl, Bethel

File No. 2009-134

FINDINGS AND CONCLUSIONS

The Complainant brought this Complaint pursuant to Connecticut General Statutes § 9-7b and alleged during the 2009 municipal election, the “Committee to Elect Burke and Slifkin ‘09” political slate committee accepted contributions without properly collecting and reporting sufficient information about the contributors, in possible violation of General Statutes §§ 9-608 & 9-611.

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

1. “Committee to Elect Burke and Slifkin ‘09” was a political slate committee formed to support the candidacies of Robert Burke and William Slifkin for First Selectman and Selectman, respectively, in the town of Bethel.
2. The Respondent here is Daniel Gaita, who was the treasurer of “Committee to Elect Burke and Slifkin ‘09” during all times relevant to the instant Complaint.¹
3. Respondent set up an Internet website for the campaign; included in this website was a donation page in which a contributor could make an online contribution to the committee via credit card. Complainant here alleges that the website did not capture sufficient information about the contributor at the time the contribution was made.
4. General Statutes § 9-608 (c) (Rev. to Jan. 1, 2012) provides, in pertinent part:

(c)(1) Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to: (A) An itemized accounting of each contribution, if any, including the full name and complete address of each contributor and the amount of the contribution; (B) in the case of anonymous contributions, the total amount received and the denomination of the bills; (C) an itemized accounting of each expenditure, if any, including the full name and complete address of each payee, including secondary payees whenever the primary or principal payee is known to include charges which the primary payee has already paid or will pay directly to another person, vendor or entity, the amount and the purpose of the

¹Respondent resigned as treasurer of “Committee to Elect Burke and Slifkin ‘09” on or about October 8, 2009; Mr. Burke, chairman of the committee, replaced Respondent with Robert Cmic on or about October 15, 2009.

expenditure, the candidate supported or opposed by the expenditure, whether the expenditure is made independently of the candidate supported or is an in-kind contribution to the candidate, and a statement of the balance on hand or deficit, as the case may be; . . . (G) for each individual who contributes in excess of one hundred dollars but not more than one thousand dollars, in the aggregate, to the extent known, the principal occupation of such individual and the name of the individual's employer, if any; (H) for each individual who contributes in excess of one thousand dollars in the aggregate, the principal occupation of such individual, the name of the individual's employer, if any; (I) for each itemized contribution made by a lobbyist, the spouse of a lobbyist or any dependent child of a lobbyist who resides in the lobbyist's household, a statement to that effect; and (J) for each individual who contributes in excess of four hundred dollars in the aggregate to or for the benefit of any candidate's campaign for nomination at a primary or election to the office of chief executive officer of a town, city or borough, a statement indicating whether the individual or a business with which he is associated has a contract with said municipality that is valued at more than five thousand dollars. Each campaign treasurer shall include in such statement (i) an itemized accounting of the receipts and expenditures relative to any testimonial affair held under the provisions of section 9-609 or any other fund-raising affair, which is referred to in subsection (b) of section 9-601a, and (ii) the date, location and a description of the affair. (Emphasis added.)

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

(a) No individual shall make a contribution or contributions to, for the benefit of, or pursuant to the authorization or request of, a candidate or a committee supporting or opposing any candidate's campaign for nomination at a primary, or any candidate's campaign for election, to the office of (1) Governor, in excess of three thousand five hundred dollars; (2) Lieutenant Governor, Secretary of the State, Treasurer, Comptroller or Attorney General, in excess of two thousand dollars; (3) chief executive officer of a town, city or borough, in excess of one thousand dollars; (4) state senator or probate judge, in excess of one thousand dollars; or (5) state representative or any other office of a municipality not previously included in this subsection, in excess of two hundred fifty dollars. The limits imposed by this subsection shall be applied separately to primaries and elections.

(b) (1) No individual shall make a contribution or contributions to, or for the benefit of, an exploratory committee, in excess of three hundred seventy-five dollars, if the candidate establishing the exploratory committee certifies on the statement of organization for the exploratory committee pursuant to subsection (c) of section 9-604 that the candidate will not be a candidate for the office of state representative.

No individual shall make a contribution or contributions to, or for the benefit of, any exploratory committee, in excess of two hundred fifty dollars, if the candidate establishing the exploratory committee does not so certify.

(2) No individual shall make a contribution or contributions to, or for the benefit of, a political committee formed by a slate of candidates in a primary for the office of justice of the peace, in excess of two hundred fifty dollars.

(c) No individual shall make contributions to such candidates or committees which in the aggregate exceed fifteen thousand dollars for any single election and primary preliminary thereto.

(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.

(e) No individual who is less than eighteen years of age shall make a contribution or contributions, in excess of thirty dollars to, for the benefit of, or pursuant to the authorization or request of: (1) A candidate or a committee supporting or opposing any candidate's campaign for nomination at a primary to any office; (2) a candidate or a committee supporting or opposing any candidate's campaign for election to any office; (3) an exploratory committee; (4) any other political committee in any calendar year; or (5) a party committee in any calendar year. Notwithstanding any provision of subdivision (2) of section 9-7b, any individual who is less than eighteen years of age who violates any provision of this subsection shall not be subject to the provisions of subdivision (2) of section 9-7b.

6. When individuals make contributions via credit card, the Commission provides in *A Guide for Municipal Candidates* (Rev. April 2009) that the following information be collected:

- Contributor's full name;
- Contributor's name as it appears on the credit card;
- Residence address of contributor;
- Billing address on record with card issuer (if different than residence address);
- Individual's e-mail address (applicable to credit card contributions over the Internet);
- Amount of contribution;
- Credit card number, including the three (3) or four (4) digit security code (found typically at back of card within signature field, CVV/CVV2);
- Credit card expiration date;

- Statement of whether contributor is a lobbyist, lobbyist spouse, or lobbyist dependent child;
- Principal occupation, if individual's aggregate contributions to the committee exceed one hundred dollars (\$100);
- Name of employer, if individual's aggregate contributions to the committee exceed one hundred dollars (\$100);
- Statement of whether contributor, or business with which contributor is associated, has a contract with the municipality valued at more than five thousand dollars (\$5,000), if the individual's aggregate contributions exceed four hundred dollars (\$400) to the committee of a candidate running for chief executive officer of the municipality;
- Donor must affirm the statement: "I am eighteen (18) years of age or older" (applicable to contributions exceeding thirty dollars (\$30);
- Donor must affirm the statement: "This contribution is made on my personal credit card for which I have a legal obligation to pay and intend to pay from my own personal funds; payment on this card is not made from the funds of a corporation, labor organization or any other entity;" and
- Donor must affirm the statement: "I am either a United States citizen or a foreign national with permanent resident status in the United States."

7. The evidence here shows that in order to make an online credit card contribution to the "Committee to Elect Burke and Slifkin '09," the contributor would start the transaction by clicking on a "Donate" button on the committee's website, which then directed the contributor to a committee-specific page on the credit card processor's website. At this point in the transaction, the following information would be collected by the credit card processor in order for the credit card to be charged:

- Country
- First and Last Name
- Credit Card Number
- Expiration Date
- CSC²
- Billing Address
- City
- State
- Zip Code
- Home Telephone
- Email

² Card Security Code (also known as a CVV or CVV2 Number).

8. According to the Respondent, once the above information was provided, the credit card would be charged and the funds would be directed to the committee's merchant account at the credit card processor.
9. The Complainant alleges that the above information was the sum total of the information collected by the committee for each credit card transaction and that this collection of information was insufficient.
10. Respondent does not generally disagree with above allegation. He asserts that the credit card process simply did not allow him to collect any more information than what is enumerated in Paragraph 7.
11. However, Respondent asserts, and has provided evidence in support, that he developed a method to attempt to collect the remainder of the information enumerated in the guidebook subsequent to the processing of the credit card. After successful completion of the credit card transaction with the credit card processor, the processor's website would automatically redirect the contributor back to an Internet form on the committee's website that stated the following: "In order to comply with State Election Enforcement regulations please complete the following/**We can not process [your] contribution without this information.**" (Emphasis in original.) The form itself requested the following information (as it appeared on the form):

- Contributor's Full Name
- Contributor's Name as it appears on your credit card
- Contributor's Resident Address
- City
- State
- Zip
- E-mail address
- Amount Contributed
- Credit Card CVV/CVV2 Number
- Is the contributor a lobbyist, lobbyist spouse, or lobbyist dependent child (Yes/No)
- Principal occupation, if individual's aggregate contributions to the committee exceed one hundred dollars (\$100)
- Name of employer, if individual's aggregate contributions to the committee exceed one hundred dollars (\$100)
- Does contributor, or business with which contributor is associated, have a contract with the municipality valued at more than five thousand dollars (\$5000), if the individual's aggregate contributions exceed four hundred dollars (\$400) (Yes/No)
- I am eighteen (18) years of age or older (applicable to contributions exceeding thirty dollars (\$30) (Yes/No)

- This contribution is made on my personal credit card for which I have a legal obligation to pay and intend to pay from my own personal funds; payment on this card is not made from the funds of a corporation, labor organization or any other charity. (Yes/No)
- I am either a United States citizen or a foreign national with permanent status in the United States (Yes/No)

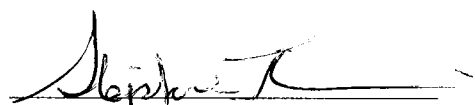
12. The Respondent asserts that the user would then submit the form and the remainder of the information would be sent to the Respondent in an email. He further asserts that it was his practice that if: the form was not sent, contained material omissions, or any of the information in the form indicated that the contribution was otherwise not permissible, he would affirmatively reject the contribution through the credit card processor before it was deposited in the committee bank account.
13. As reported by the Respondent through the committee's Itemized Campaign Finance Reports, 3 contributions were collected via the committee website credit card process described above: 2 contributions of \$25 apiece and 1 contribution of \$50. As an initial matter, the Commission concludes that in each case, the information reported by the Respondent complied with the requirements of General Statutes § 9-608 (c).
14. Considering the aforesaid, the Commission agrees, as an initial matter, with the Complainant's allegation that the information gathered by the Respondent prior to the processing of the credit card was insufficient. Once the credit card was processed, the contribution had been made. And, at that time the only information collected from the contributor were the 11 items enumerated in paragraph 7, above. The remainder of the information was collected *subsequent* to the making of the contribution. All of the information should have been collected and/or verified *prior* to the making of the contribution.
15. However, in this case, the Commission also concludes that considering the information gathered through *all* of the steps outlined by the Respondent, the committee met the statutory requirements. Considering both the substantially compliant efforts made by the Respondent in this matter, as well as the fact that this matter concerns a relatively low yield of credit card contributions to a municipal political slate committee, the Commission will take no further action against this Respondent.

ORDER

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

That no further action be taken.

Adopted this 21st day of September, 2011 at Hartford, Connecticut.

A handwritten signature in black ink, appearing to read "Stephen F. Cashman", written over a horizontal line.

Stephen F. Cashman, Chairperson
By Order of the Commission