

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

RECEIVED
STATE ELECTIONS

In the Matter of a Complaint by
Michael Brown, Milford

DEC 10 2010

File No. 2009-140

ENFORCEMENT
AGREEMENT CONTAINING HENCEFORTH ORDER
FOR VIOLATION OF GENERAL STATUTES § 9-621 (a)

This agreement, by and between Scott M. Firmender of the City of Milford, County of New Haven, State of Connecticut (hereinafter referred to as the Respondent) and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with § 9-7b-54 of the Regulations of Connecticut State Agencies and § 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Complainant alleged that he received an eight page "newspaper" (hereinafter "Communication") delivered to his home called the "Milford Sunday Republican." Further, that the attribution appeared on the second page of the communication.
2. Complainant alleged more specifically that the Milford Republican Town Committee (hereinafter MRTC), and the mayoral candidate committee of James L. Richetelli, which were included in the attribution on the second page violated § 9-621. Allegations pertaining the Mr. Richetelli's treasurer, are treated in a separate document.
3. Respondent was the treasurer of MRTC, a party committee. Each candidate appearing in the Communication, with the exception of Mr. Richetelli, by registering with the City Clerk of Milford, designated the MRTC as their sole funding vehicle for the November 3, 2009 municipal election.
4. The Communication was an eight page advertisement for *Richetelli '09* and the candidates supported by the MRTC. It contained advocacy and favorable coverage of each candidate, and opposed the experience and history of opposition candidates.
5. The campaign literature which is subject of this complaint was styled as a "newspaper" and contained on the inside second page an attribution that read:

Paid for by the Milford Republican Town Committee, Scott Firmender, Treasurer; and Reelect Richetelli '09, John O'Connell, Treasurer, Approved by James L. Richetelli, Jr. and the candidates featured throughout this newspaper.

6. General Statutes § 9-621, provides in pertinent part,

(a) No individual shall make or incur any expenditure with the cooperation of, at the request or suggestion of, or in consultation with any candidate, candidate committee or candidate's agent, and no candidate or committee shall make or incur any expenditure for any written, typed or other printed communication, or any web-based,

written communication, which promotes the success or defeat of any candidate's campaign for nomination at a primary or election or solicits funds to benefit any political party or committee **unless such communication bears upon its face (1) the words "paid for by" and the following:** (A) In the case of such an individual, the name and address of such individual; (B) in the case of a committee other than a party committee, the name of the committee and its campaign treasurer; or (C) **in the case of a party committee, the name of the committee, and (2) the words "approved by" and the following:** (A) In the case of an individual making or incurring an expenditure with the cooperation of, at the request or suggestion of, or in consultation with any candidate, candidate committee or candidate's agent, the name of such individual; or (B) **in the case of a candidate committee, the name of the candidate the name of the candidate.**
[Emphasis added.]

~~7.~~ At the time that the Communication described in paragraph 4 was produced and distributed the Commission's *A Guide for Municipal Candidates (Rev. April 2009)* at page 34 indicated:

A candidate or political slate committee that finances any written, typed or printed communication, or any web-based written communication, must include on the face of the communication the text "Paid for by" together with the name of the sponsoring committee and its treasurer. Such communications paid for by the town committees must contain the text "Paid for by" together with the name of the town committee. [Emphasis added.]

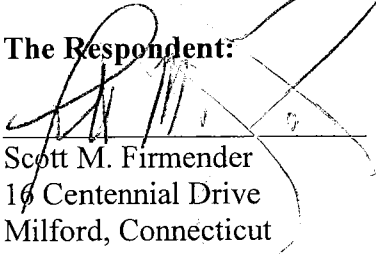
8. The Commission has consistently held that an attribution pursuant to General Statutes § 9-621 (a), should be **on the face** of the communication, as described by the Commission in paragraph 6 above. The Commission finds that in this instance, the attribution was on the *inside* of the communication on the second page. The Commission concludes therefore that the attribution on the inside of the Communication is not on "the face" of that communication, and therefore does not satisfy the requirements of § 9-621 (a).
9. It is concluded that Respondent violated § 9-621 (a) of the General Statutes by failing to include an attribution on the *face* of the eight page advertisement advocating for *Richetelli '09* and the MRTC candidates for the November 3, 2009 municipal election in the City of Milford.
10. The Commission notes that because each candidate supported by the piece was funded by either of the two committees featured in the attribution in paragraph 5 above, the attribution was accurate as to the *source* of funding. Furthermore, the Commission finds that, while the candidate included an allegation regarding the size of the font, upon investigation it was found that while the attribution was smaller than that of the general text of the advertisement, it was nevertheless clearly readable, and that the statutes do not dictate a permissible minimal font size under § 9-621 (a) under these circumstances.

11. The Respondent admits all jurisdictional facts and agrees that this agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
12. 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.
13. 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.
14. 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

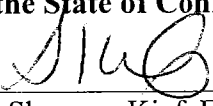
IT IS HEREBY ORDERED that the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-621 (a).

The Respondent:



Scott M. Firmender
16 Centennial Drive
Milford, Connecticut

For the State of Connecticut:

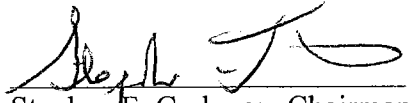
BY: 

Shannon Kief, Esq.
Legal Program Director
& Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, Connecticut

Dated: 11/30/2010

Dated: 12/10/10

Adopted this 15th day of December of 2010 at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission