

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Thomas Barnes, Bristol

File No. 2009-157

FINDINGS AND CONCLUSIONS

Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that the Respondent, incumbent Sen. Thomas A. Colapietro, publicly announced that he was going to run for re-election in 2010 and that by doing so, became a "candidate" and should have registered a candidate committee or filed a certificate pursuant to General Statutes § 9-604 (b) with the Commission within 10 days of the "announcement," but failed to do so. After the investigation, the Commission makes the following findings and conclusions:

1. At all relevant times, the Respondent was the incumbent state senator, representing the 31st senatorial district in the Connecticut General Assembly.
2. On or about November 9, 2009, an excerpt from an interview with the Respondent was published at "Bristoltoday.com," an online "blog" featuring local "news and information about Bristol, Connecticut."
3. In the aforementioned interview, the Respondent was quoted as stating "[a]s long as those Republicans keep calling me names, I'm going to keep running. They keep shooting their mouths off. . . ." The Complainant alleges that this quote constituted an affirmative declaration of the Respondent's candidacy for re-election to the state senate and that he was required to either form a candidate committee or file a certification of exemption, as prescribed in General Statutes § 9-604.
4. General Statutes § 9-601 (Rev. to 2009), provides in pertinent part:

As used in this chapter and sections 9-700 to 9-716, inclusive:

. . .
(11) "Candidate" means an individual who seeks nomination for election or election to public office whether or not such individual is elected, and for the purposes of this chapter and sections 9-700 to 9-716, inclusive, ***an individual shall be deemed to seek nomination for election or election if such individual has (A) been endorsed by a party or become eligible for a position on the ballot at an election or primary, or (B) solicited or received contributions, made expenditures or given such individual's consent to any other person to solicit or receive contributions or make expenditures with the intent to bring about such individual's nomination for election or election to any such office.*** "Candidate" also means a slate of candidates which is to appear on the ballot in a primary for the office of justice of the peace. For the purposes of sections 9-600 to 9-610, inclusive, and section 9-621, "candidate" also means an

individual who is a candidate in a primary for town committee members. [Emphasis added.]

5. General Statutes § 9-604, provides in pertinent part:

(a) Each candidate for a particular public office or the position of town committee member shall form a single candidate committee for which he shall designate a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds and shall file a committee statement containing such designations, *not later than ten days after becoming a candidate*, with the proper authority as required by section 9-603. The candidate may also designate a deputy campaign treasurer on such committee statement. The campaign treasurer and any deputy campaign treasurer so designated shall sign a statement accepting such designation which the candidate shall include as part of, or file with, the committee statement.

(b) The formation of a candidate committee by a candidate and the filing of statements pursuant to section 9-608 shall not be required if the candidate files a certification with the proper authority required by section 9-603, not later than ten days after becoming a candidate, and any of the following conditions exist for the campaign: (1) The candidate is one of a slate of candidates whose campaigns are funded solely by a party committee or a political committee formed for a single election or primary and expenditures made on behalf of the candidate's campaign are reported by the committee sponsoring the candidate's candidacy; (2) the candidate finances the candidate's campaign entirely from personal funds and does not solicit or receive contributions, provided if said candidate personally makes an expenditure or expenditures in excess of one thousand dollars to, or for the benefit of, said candidate's campaign for nomination at a primary or election to an office or position, said candidate shall file statements according to the same schedule and in the same manner as is required of a campaign treasurer of a candidate committee under section 9-608; (3) the candidate does not receive or expend funds in excess of one thousand dollars; or (4) the candidate does not receive or expend any funds, including personal funds, for the candidate's campaign. If the candidate no longer qualifies for the exemption under any of these conditions, the candidate shall comply with the provisions of subsection (a) of this section, not later than three business days thereafter and shall provide the candidate's designated campaign treasurer with all information required for completion of the treasurer's statements and filings as required by section 9-608. If the candidate no longer qualifies for the exemption due to the condition stated in the candidate's certification but so qualifies due to a different condition specified in this subsection,

the candidate shall file an amended certification with the proper authority and provide the new condition for the candidate's qualification not later than three business days following the change in circumstances of the financing of the candidate's campaign. The filing of a certification under this subsection shall not relieve the candidate from compliance with the provisions of this chapter. [Emphasis added.]

6. At the time of the aforementioned statement by the Respondent, no registration statement or certification of exemption had been filed with the State Elections Enforcement Commission ("SEEC"), the proper filing repository under General Statutes § 9-603 for candidates for the General Assembly.
7. The Respondent submitted his first filing on January 19, 2010 when he filed a Registration by Candidate (SEEC Form Nos. 1 & 1A), forming the "Colapietro for Senate" candidate committee. The first Itemized Campaign Finance Disclosure Statement (SEEC Form No. 30) filed by "Colapietro for Senate" was the April 10, 2010 report, which disclosed that the first contribution and expenditure associated with the campaign occurred on February 17, 2010 and March 15, 2010, respectively.
8. On or about May 23, 2010, the Respondent was nominated by convention as the Democratic nominee for the 31st state senatorial district.
9. Here, the Complaint alleges that the "Bristoltoday.com" post constituted an announcement of the Respondent's candidacy such that the Respondent was required to form a candidate committee. In support of this allegation, Complainant cites SEEC Declaratory Ruling 2009-01. As an initial matter, Complainant's reliance on this Declaratory Ruling is mislaid. This ruling concerns "public declarations" by candidates in exploratory committees; a candidate who is associated with an exploratory committee "must dissolve that committee and form a candidate committee within a specified time following a 'public declaration' of the candidate's intention to seek nomination or election to a particular public office." *Id.* (Citing General Statutes §§ 9-604 (c) and 9-608 (t).)
10. However, where, as here, an individual is *not* in an exploratory committee, he must form a committee or file a certification within ten days *only* after becoming a "candidate." This event occurs when an individual has "become eligible for a position on the ballot at an election or primary, or . . . solicited or received contributions, made expenditures or given [his] consent to any other person to solicit or receive contributions or make expenditures with the intent to bring about such individual's nomination for election or election" to office. *See* General Statutes §§ 9-601 (11) and 9-604. The "public declaration" of an individual who is not in an exploratory committee, without more, is insufficient to trigger the filing requirements in General Statutes § 9-604 (a) & (b).
11. Here, even assuming that the Respondent's statement constituted a declaration of his candidacy, the Complainant neither makes a claim, nor presents any evidence that the Respondent had otherwise "become eligible for a position on the ballot at an election or primary, or . . . solicited or received contributions, made expenditures or given [his]

consent to any other person to solicit or receive contributions or make expenditures with the intent to bring about [his] nomination for election or election [as senator]" prior to the January 19, 2010 filing of his registration statement. The statement occurred on or about November 9, 2009, more than three months prior to the first contribution or expenditure associated with the Respondent's candidacy and more than six months prior to the May 23, 2010 convention that nominated him for his 10th term in the Senate. Accordingly, the Respondent was not required to form a candidate committee or a certification pursuant to General Statutes § 9-604 (b).

ORDER

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

That the Complaint be dismissed.

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



Stephen F. Cashman, Chairman
By Order of the Commission