

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
Louis DeLuca, Woodbury

File No. 2009-160

FINDINGS AND CONCLUSIONS

Complainant brings this Complaint pursuant to Connecticut General Statutes §9-7b, alleging that an unidentified group of citizens shared costs with the Woodbury Democratic Town Committee to purchase and advertisement in the November 18, 2009 Woodbury *The Voices* newspaper. Specifically, that the group shared 50% of costs for the advertisement but did not register as a committee nor did it have a proper attribution on the advertisement. After the investigation, the Commission makes the following findings and conclusions:

1. Respondent, Andrew H. Sherman, is the Treasurer of the Woodbury Democratic Town Committee (hereinafter "WDTC"), a party committee, and was so at all relevant times regarding this complaint.
2. The advertisement that is the subject of this investigation appeared in *The Voices* newspaper in Woodbury, Connecticut on November 18, 2009 after the municipal elections. The advertisement advocates for "civil discourse" in Woodbury elections, and does not specifically mention a candidate. It does reference a party in the attribution.
3. The advertisement in question cost \$430.50 and was paid for entirely by the WDTC on November 13, 2009. The expenditure was reported by the Respondent on the WDTC January 10, 2010 *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20).
4. The advertisement was drafted by a group of "concerned citizens" in Woodbury who began meeting following the November 2009 election and identified themselves as "Woodbury First." The advertisement contains the attribution: "*Paid for by contributions from Woodbury Democratic Town Committee and concerned citizens of Woodbury. Andrew Sherman Treas. www.woodburyfirst.org.*"
5. Members of Woodbury First approached the WDTC with a request that the WDTC help pay for the cost of the advertisement by providing supplemental funds to those provided individually by members of the group and other Woodbury residents. The WDTC Executive Committee discussed the advertisement and approved sponsorship of the advertisement, accepting direct contributions to the WDTC from individuals from Woodbury First to defray the costs as agreed.
6. A total of \$325 in contributions, some small enough to not require itemization, were received from individuals associated with "Woodbury First" and other individuals, ostensibly for the advertisement which were disclosed by Respondent on the WDTC January 10, 2010 and April 10, 2010 *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20). The contributions were direct contributions to the WDTC and properly reported as such.

7. General Statutes (Rev. to 2009) § 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 including an organization expenditure*** for a party candidate listing, as defined in subparagraph (A) of subdivision (25) of section 9-601, ***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. ...
[Emphasis added.]

8. General Statutes § 9-607, provides in pertinent part:

(g) Permissible expenditures. (1) As used in this subsection, (A) ***"the lawful purposes of his committee" means:*** (i) For a candidate committee or exploratory committee, the promoting of the nomination or election of the candidate who established the committee, except that after a political party nominates candidates for election to the offices of Governor and Lieutenant Governor, whose names shall be so placed on the ballot in the election that an elector will cast a single vote for both candidates, as prescribed in section 9-181, a candidate committee established by either such candidate may also promote the election of the other such candidate; (ii) for a political committee, the promoting of the success or defeat of candidates for nomination and election to public office or position subject to the requirements of this chapter, or the success or defeat of referendum questions, provided a political committee formed for a single referendum question shall not promote

the success or defeat of any candidate, and provided further a legislative caucus committee may expend funds to defray costs of its members for conducting legislative or constituency-related business which are not reimbursed or paid by the state; and (iii) *for a party committee, the promoting of the party, the candidates of the party and continuing operating costs of the party*, and (B) "immediate family" means a spouse or dependent child of a candidate who resides in the candidate's household.

[Emphasis added.]

9. The Respondent maintains, that the advertisement was a permissible expenditure as it promoted the Democratic Party as the party in favor of civil discourse, and further that an attribution was not required because the advertisement did not promote candidates or solicit funds.
10. The Commission agrees with the Respondent that it was a permissible expenditure for a party committee and that no attribution was required at the time the advertisement was placed. The Commission further notes that, prospectively, Public Act 10-187 amended § 9-621 to require an attribution in connection with an expenditure made to promote the party, effective June 8, 2010.
11. The Commission has determined in the past that where an attribution is *not* required, but a potentially inaccurate one nevertheless is included, such matters are not enforceable (*see In the Matter of a Complaint by Amy Primorac*, Monroe, File No. 2009- 064). Accordingly the attribution allegation is dismissed.
12. With respect to the allegation that Woodbury First should have filed as a political committee, General Statutes (Rev. to 2009) § 9-602, provides in pertinent part:

(a) Except with respect to an individual acting on his own, *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 or, in the event of a referendum question, a group of individuals has filed a certification in accordance with the provisions of section 9-604 or 9-605, as the case may be. *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.]

13. As previously determined in paragraph 6, contributions from individuals associated with Woodbury First were made as proper contributions to WDTC, and reported as such. Accordingly, no separate committee was required to register on that basis.
14. Woodbury First's website at www.woodburyfirst.org indicates that the group claims to be a "...nonpartisan coalition of residents of Woodbury ... who have come together with a common goal of preserving a sense of community and common decency in their historic town." A search of the website reveals that there is no advocacy for candidates, parties, or referenda by Woodbury First on its website.
15. Accordingly, the Commission concludes that the individuals responsible for creating and maintaining the website www.woodburyfirst.org, based on its content, were not required to file a committee pursuant to General Statutes § 9-602.

ORDER

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

That the Complaint be dismissed.

Adopted this 18th day of August of 20 10 at Hartford, Connecticut


Stephen F. Cashman, Chairman
By Order of the Commission