

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Victor L. Harpley, Cromwell

File No. 2010-013

**AGREEMENT CONTAINING CONSENT ORDER FOR
VIOLATIONS OF GENERAL STATUTES**

This Agreement, by and between Ann Halibozek, hereinafter referred to as the “Respondent,” of the Town of Cromwell, County of Middlesex, State of Connecticut and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with General Statutes § 4-177(c) and section 9-7b-54 of the Regulations of Connecticut State Agencies.

In accordance herewith, the parties agree that:

1. Respondent was a candidate for Board of Selectman at the November 3, 2009 election in the Town of Cromwell.
2. On September 21, 2009 Respondent filed a *Registration by Candidate* (SEEC Form 1) with the Cromwell Town Clerk’s office indicating that she was exempt from forming a candidate committee, and a *Certification of Exemption from Forming a Candidate Committee* (SEEC Form 1B) indicating that she was one of a slate of candidates whose campaigns were being funded solely by a town committee, and that the name of her sponsoring committee was the Cromwell Democratic Town Committee (CDTC).
3. Yeske for Board of Selectman (hereinafter “Yeske Committee”), was the candidate committee of Bill Yeske, at the November 3, 2009 Cromwell election.
4. Complainant alleged that Respondent allowed the Yeske Committee to pay for a robocall promoting her candidacy, as well as candidates Stephen E. Bayley, Mark Corvo, and Bill Yeske.
5. Specifically, Complainant alleged that Respondent, along with Mr. Bayley and Mr. Corvo, violated General Statutes §§ 9-616 and 9-621 by allowing their names to be used in a robocall which promoted all four candidates, but was paid for solely by the Yeske Committee. Finally, Complainant alleged that Respondent failed to provide notice to the CDTC of an in-kind contribution from the Yeske Committee in the form of the aforementioned robocall as required by § 9-608.

6. The Commission addresses allegations in this complaint as they pertain to individuals other than Respondent under separate respective documents.
7. The content of the robocall that is subject of this complaint follows:

Hi this is First Selectman Jerry Shingleton calling to remind you to vote on Tuesday between 6:00 AM to 8:00PM in Cromwell High School on Evergreen Road. Interested in career service levels, continue to manage government in a business context, to eliminate waste and to hold people accountable, we need real leadership on the Board of Selectman, with no strings attached. Vote for new energy, new ideas and new faces. Vote for Bill Yeske and his teammates Steve Bayley, Mark Corvo, and Ann Halibozek. Thank you very much. Paid and Authorized by Bill Yeske for Board of Selectman, (860) 635-6763.

There is no dispute that Respondent gave the Yeske Committee permission to use her name in a robocall with the purpose of promoting his candidacy.

8. The Yeske Committee reported an expenditure for the robocall that is the subject of this complaint on its January 10th Itemized Campaign Finance Disclosure Statement (SEEC Form 20). The aforementioned expenditure was disclosed as a November 4, 2009 expenditure to a Virginia firm in the amount of \$215.76 with the description “robo calls to citizens.”
9. General Statutes § 9-616 provides in pertinent part:

(a) A ***candidate committee shall not make contributions to***, or for the benefit of, (1) a party committee, (2) a political committee, (3) a committee of a candidate for federal or out-of-state office, (4) a national committee, or (5) ***another candidate committee*** except that (A) a pro rata sharing of certain expenses in accordance with subsection (b) of section 9-610 shall be permitted, and (B) 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, an expenditure by a candidate committee established by either such candidate that benefits the candidate committee established by the other such candidate shall be permitted. ...

[Emphasis added.]

10. Pursuant to General Statutes § 9-622, “illegal practices” include:

...

(10) Any person who solicits, makes or *receives a contribution* that is otherwise *prohibited by any provision of this chapter*. ...

[Emphasis added.]

11. Upon investigation, the Commission finds that the robocall, described in paragraph 7 and 8 above, promoted Respondent’s candidacy for Cromwell Board of Selectman, while being paid for exclusively by Yeske Committee. The Commission further finds that this in-kind contribution from the Yeske Committee to Respondent was prohibited by General Statutes § 9-616 (a).

12. The Commission concludes, for the reasons detailed in paragraph 11 above, that Respondent violated §§ 9-616 (a) and 9-622 by receiving a contribution from the Yeske Committee that was a prohibited contribution by a candidate committee.

13. Respondent claims that she was unaware that coordinating an expenditure with a candidate committee, by granting permission for her name to be used in a robocall, was prohibited by General Statutes §§ 9-616 (a) and 9-622(10).

14. Respondent, as detailed in paragraph 2 above, filed a SEEC Form 1 and SEEC Form1b indicating that she was one of a slate of candidates whose campaigns were being funded solely by a town committee, and that the name of her sponsoring committee was the CDTC.

15. 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; ...

[Emphasis added.]

16. The Commission finds, as detailed in paragraphs 2 and 14 above, that the Respondent designated the CDTC as her “sponsoring committee” that would “solely” fund her campaign pursuant to General Statutes § 9-604 (b). The Commission further finds that because Respondent received an in-kind contribution of a robocall from the Yeske, as detailed in paragraphs 7 and 8 above, that her campaign was *not* therefore funded *solely* by the CDTC, but also by the Yeske Committee.
17. The Commission concludes, for the reasons stated in paragraph 16 above, that by accepting an in-kind contribution from the Yeske Committee after certifying that she would be solely funded by the CDTC, Respondent violated General Statutes § 9-604.
18. General Statutes § 9-621 provides in pertinent part:

(a) No individual shall make or incur any expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate's agent, no group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee shall make or incur any expenditure, 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 promotes or opposes any political party 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;*** (C) in the case of a party committee, the name of the committee; or (D) in the case of a group of two or more individuals that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee, the name of the group and the name and address of its agent, ***and (2) the words "approved by" and the following:*** (A) In the case of an individual, group or committee other than a candidate committee making or incurring an expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate's agent, the name of the candidate; ***or (B) in the case of a candidate committee, the name of the candidate.***

(b) In addition to the requirements of subsection (a) of this section:

...

(3) ***No candidate or candidate committee*** or exploratory committee established by a candidate shall ***make or incur any expenditure for automated telephone calls which promote the success of such candidate's campaign for*** nomination at a primary or ***election*** or the defeat of another candidate's campaign for nomination at a primary or election, ***unless the candidate's name and voice are contained in the narrative of the call, before the end of such call.***

[Emphasis added.]

19. The Commission finds that the robocall, as described in paragraph 7 above, did *not* include the voice of Respondent in the narrative of the call as required by General Statutes § 9-621 (b) (3). The Commission concludes therefore that Respondent violated § 9-621, by failing to include her voice in the aforementioned robocall.

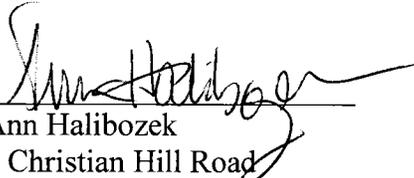
20. Finally, Complainant alleged that Respondent failed to report the expenditure for the in-kind contribution of the robocall from the Yeske Committee to the CDTC as her sponsoring committee. The Commission finds that Respondent was *not* the treasurer for the Yeske Committee, and therefore concludes pursuant to General Statutes § 9-608 that Respondent was not liable to report the expenditure by the Yeske Committee for the in-kind contribution of the robocall promoting Respondent to her sponsoring committee. Because there was no violation the Commission therefore dismisses this allegation.
21. 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 Regulations of Connecticut State Agencies § 9-7b-56.
22. It is understood 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.
23. 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 challenge or contest the validity of this Agreement or Order hereinafter stated.
24. Upon the Respondent's agreement with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent pertaining to this matter.

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes §§ 9-604, 9-616, 9-621 and 9-622.

The Respondent:

For the State Elections Enforcement Commission:

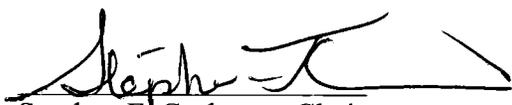
By: 
Ann Halibozek
7 Christian Hill Road
Cromwell, CT 06416

By: 
Michael J. Brandi, Esq.
Executive Director and General Counsel
and Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, CT 06106

Dated: 5/17/2012

Dated: 5/18/12

Adopted this 23rd day of May, 2012 at Hartford, Connecticut


Stephen F. Cashman, Chair
By Order of the Commission